

SENATE AMENDMENTS TO SENATE BILL 41

By COMMITTEE ON GENERAL GOVERNMENT, CONSUMER AND SMALL BUSINESS
PROTECTION

April 29

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete lines 3
2 and 4 and insert “25.020, 40.270, 65.805, 94.974, 144.130, 146.035, 147.421, 161.336, 181.548, 181.854,
3 190.050, 192.410, 192.420, 192.423, 192.440, 192.450, 192.465, 192.480, 192.490, 192.493, 192.495, 192.505,
4 268.357, 279B.055, 279B.060, 279C.107, 279C.410, 285C.145, 287A.350, 312.030, 312.190, 339.388, 358.905,
5 358.915, 409.225, 419C.532, 421.344, 421.347, 421.349, 421.359, 421.442, 426.155, 431.627, 433.009,
6 441.055, 442.583, 453.307, 453.332, 456.623, 465.015, 466.800, 469.030, 469.080, 469.410, 469.560, 476.090,
7 520.027, 520.097, 522.365, 526.280, 583.490, 656.702, 657.732, 657.734, 659A.209, 671.338, 705.137,
8 706.720, 723.118, 743.862, 777.795, 802.183 and 802.187; repealing ORS 192.501 and 192.502; and de-
9 claring an emergency.”.

10 Delete lines 6 through 26 and delete pages 2 through 23 and insert:

“PUBLIC RECORDS REQUEST PROCEDURES

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14 “**SECTION 1.** ORS 192.410 is amended to read:

15 “192.410. As used in ORS 192.410 to 192.505:

16 “(1) ‘**Business day**’ means a day other than a federal or State of Oregon legal holiday or
17 a day other than a day on which the offices of a public body are otherwise closed.

18 “[1] (2) ‘Custodian’ means:

19 “(a) The person described in ORS 7.110 for purposes of court records; or

20 “(b) A public body mandated, directly or indirectly, to create, maintain, care for or control a
21 public record. ‘Custodian’ does not include a public body that has custody of a public record as an
22 agent of another public body that is the custodian unless the public record is not otherwise avail-
23 able.

24 “[2] (3) ‘Person’ includes any natural person, corporation, partnership, firm, association or
25 member or committee of the Legislative Assembly.

26 “[3] (4) ‘Public body’ includes every state officer, agency, department, division, bureau, board
27 and commission; every county and city governing body, school district, special district, municipal
28 corporation, and any board, department, commission, council, or agency thereof; and any other
29 public agency of this state.

30 “[4](a) (5)(a) ‘Public record’ includes any writing that contains information relating to the
31 conduct of the public’s business, including but not limited to court records, mortgages, and deed
32 records, prepared, owned, used or retained by a public body regardless of physical form or charac-
33 teristics.

34 “(b) ‘Public record’ does not include:

35 “(A) Any writing that does not relate to the conduct of the public’s business and that is con-

1 tained on a privately owned computer.

2 **“(B) An electronic record that was deleted in conformity with the applicable retention**
3 **period established by the State Archivist under ORS 192.105, regardless of whether the elec-**
4 **tronic record could be recovered by the public body. This subparagraph does not authorize**
5 **a public body to delete an electronic record after receiving a request to which the electronic**
6 **record is responsive.**

7 **“(C) Electronic metadata.**

8 “[5] (6) ‘State agency’ means any state officer, department, board, commission or court created
9 by the Constitution or statutes of this state but does not include the Legislative Assembly or its
10 members, committees, officers or employees insofar as they are exempt under section 9, Article IV
11 of the Oregon Constitution.

12 “[6] (7) ‘Writing’ means handwriting, typewriting, printing, photographing and every means of
13 recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all pa-
14 pers, maps, files, facsimiles or electronic recordings.

15 **“SECTION 2.** ORS 192.420, as amended by section 34 of this 2011 Act, is amended to read:

16 **“192.420. (1) Every person has a right to inspect or obtain a copy of any public record of a**
17 **public body in this state, except as otherwise expressly provided by sections 11 to 21 of this 2011**
18 **Act.**

19 **“(2)(a) If a person who is a party to a civil judicial proceeding to which a public body is a party,**
20 **or who has filed a notice under ORS 30.275 (5)(a), asks to inspect or to receive a copy of a public**
21 **record that the person knows relates to the proceeding or notice, the person must submit the re-**
22 **quest in writing to the custodian and, at the same time, to the attorney for the public body.**

23 **“(b) For purposes of this subsection:**

24 **“(A) The attorney for a state agency is the Attorney General in Salem.**

25 **“(B) ‘Person’ includes a representative or agent of the person.**

26 **“(3) Notwithstanding subsection (1) or (2) of this section or any other provision of ORS**
27 **192.410 to 192.505, a person does not have a right to inspect or obtain a copy of a public re-**
28 **cord of a public body if the person has an outstanding balance of unpaid fees charged under**
29 **ORS 192.410 to 192.505 that relate to a prior request to that public body for public records.**
30 **The public body need not undertake any action in response to the request other than to give**
31 **written notice to the requester of the unpaid balance along with a statement that indicates**
32 **that the public body need not undertake any action to fulfill the request until the unpaid**
33 **balance is paid.**

34 **“SECTION 3.** ORS 192.440 is amended to read:

35 **“192.440. (1) The custodian of any public record that a person has a right to inspect shall give**
36 **the person, upon request:**

37 **“(a) A copy of the public record if the public record is of a nature permitting copying; or**

38 **“(b) A reasonable opportunity to inspect or copy the public record.**

39 **“(2) If a person makes a written request to inspect a public record or to receive a copy of a**
40 **public record, the public body receiving the request shall respond as soon as practicable and [with-**
41 **out unreasonable delay.] within 10 business days of receiving the request, by providing:**

42 **“(a) A response that complies with subsection (8) of this section; or**

43 **“(b) Notice that the public body is extending the deadline for providing a response under**
44 **paragraph (a) of this subsection, followed by a response that complies with subsection (8) of**
45 **this section within the additional time period stated in the notice. Notice under this para-**

1 **graph must specifically state the basis for the extension, which cannot exceed the following:**

2 **“(A) If the request seeks records that must be physically retrieved from off-site archives,**
3 **the number of business days required to retrieve the records; and**

4 **“(B)(i) If the public body estimates that the request will take less than five hours of staff**
5 **time to gather and review the records, a period not to exceed 5 business days;**

6 **“(ii) If the public body estimates that the request will take at least five hours but not**
7 **as many as 10 hours of staff time to gather and review the records, a period not to exceed**
8 **15 business days;**

9 **“(iii) If the public body estimates that the request will take at least 10 hours but not as**
10 **many as 20 hours of staff time to gather and review the records, a period not to exceed 25**
11 **business days; or**

12 **“(iv) If the public body estimates that the request will take at least 20 hours of staff time**
13 **to gather and review the records, a period not to exceed 30 business days.**

14 **“(3)(a) A public body described in paragraph (b) of this subsection may elect to double the**
15 **amount of time allowed under subsection (2)(b) of this section to respond to a request.**

16 **“(b) This subsection applies to the following public bodies that are not state agencies:**

17 **“(A) A school district, education service district or community college district with a**
18 **total enrollment for the year in which the request is made of 6,000 or fewer students; or**

19 **“(B) Any other public body with the equivalent of 100 or fewer budgeted full-time equiv-**
20 **alent employees.**

21 **“(c) A public body may not disaggregate its functions in order to meet the requirements**
22 **of paragraph (b) of this subsection.**

23 **“(d) A public body making the election described in this subsection shall note the election**
24 **and the basis on which the public body qualifies for the election in the acknowledgement**
25 **required under subsection (7) of this section.**

26 **“(4) If the public body is a school district, education service district or community college**
27 **district and fewer than half of the administrative staff are at work, as measured by full-time**
28 **equivalence, on the day that the public body receives the request, the public body may elect**
29 **to double the timeline otherwise applicable under subsection (2) of this section. The public**
30 **body shall note the election and the basis on which the public body qualifies for the election**
31 **in the acknowledgement required under subsection (7) of this section.**

32 **“(5) The public body may request additional information or clarification from the requester for**
33 **the purpose of expediting the public body’s response to the request. The timelines described in**
34 **subsections (2) to (4) of this section are suspended for any period in which the public body**
35 **is waiting for additional information or clarification from the requester.**

36 **“(6)(a) If a public body determines that the public body is unable to comply with the ap-**
37 **licable timelines under subsections (2) to (4) of this section, the public body may seek au-**
38 **thorization for additional time to provide a response to the request. If the public body:**

39 **“(A) Is a state agency, the state agency shall ask the Attorney General to authorize ad-**
40 **ditional time to provide a response. The Attorney General may not deny a request under this**
41 **subsection unless the Attorney General determines that the request is unreasonable. The**
42 **Attorney General shall notify the state agency and the requester in writing, within five**
43 **business days of receipt of the request from the state agency, of whether the request for**
44 **additional time is authorized. The timelines described in subsection (2) of this section are**
45 **suspended for any period in which the state agency is waiting for a response from the At-**

1 torney General regarding a request for additional time under this subsection. The Attorney
2 General may not charge a state agency for services provided in determining whether to au-
3 thorize additional time to respond to a request.

4 “(B) Is a public body other than a state agency, the public body shall ask the district
5 attorney described in ORS 192.460 to authorize additional time to provide a response. The
6 district attorney may not deny a request under this subsection unless the district attorney
7 determines that the request is unreasonable. The district attorney shall notify the public
8 body and the requester in writing, within five business days of receipt of the request from
9 the public body, of whether the request for additional time is authorized. The timelines de-
10 scribed in subsections (2) to (4) of this section are suspended for any period in which the
11 public body is waiting for a response from the district attorney regarding a request for ad-
12 ditional time under this subsection. The district attorney may not charge a public body for
13 services provided in determining whether to authorize additional time to respond to a re-
14 quest.

15 “(b)(A) Paragraph (a) of this subsection does not apply to judicial officers, as defined in
16 ORS 1.210, the Judicial Department, the Legislative Assembly or the members, committees
17 and statutory offices of the Legislative Assembly. A public body described in this paragraph
18 may determine for itself the amount of additional time needed to provide a response to the
19 request within a reasonable time.

20 “(B) A person may challenge the determination of what constitutes a reasonable time for
21 a public body described in subparagraph (A) of this paragraph by instituting proceedings for
22 declaratory relief in circuit court. If the determination that is being challenged is a deter-
23 mination by a judge in a circuit court, the Oregon Tax Court or the Court of Appeals, or by
24 a judge of the Supreme Court or the Chief Justice, the person may challenge the determi-
25 nation only by filing a petition for a writ of mandamus in the Supreme Court as prescribed
26 in ORS 34.105 to 34.240.

27 “(7) The public body must provide a written acknowledgment of receipt of the request to
28 the requester within five business days of receipt of the request. The acknowledgment may
29 provide any other information required under subsections (2) to (4) or (8) of this section that
30 is available at the time the acknowledgment is made.

31 “(8) Following or contemporaneous with the written acknowledgment described in sub-
32 section (7) of this section and within an adequate period of time to ensure compliance with
33 the applicable timelines in subsections (2) to (4) of this section, the response of the public body
34 [*must acknowledge receipt of the request and*] must include one of the following:

35 “(a) A statement that the public body does not possess, or is not the custodian of, the public
36 record.

37 “(b) Copies of all requested public records for which the public body does not claim an ex-
38 emption from disclosure under ORS 192.410 to 192.505.

39 “(c) A statement that the public body is the custodian of at least some of the requested public
40 records, an estimate of the time the public body requires before the public records may be inspected
41 or copies of the records will be provided and an estimate of the fees that the requester must pay
42 under subsection [(4)] (10) of this section as a condition of receiving the public records.

43 “(d) A statement [that the public body is the custodian of at least some of the requested public
44 records and that an estimate of the time and fees for disclosure of the public records will be pro-
45 vided by the public body within a reasonable time **and in compliance with the applicable**

1 **timelines established under subsections (2) to (4) of this section.**

2 “(e) A statement that the public body is uncertain whether the public body possesses the public
3 record and that the public body will search for the record and make an appropriate response as soon
4 as practicable **and in compliance with the applicable timelines established under subsections**
5 **(2) to (4) of this section.**

6 “(f) A statement that state or federal law prohibits the public body from acknowledging whether
7 the record exists or that acknowledging whether the record exists would result in the loss of federal
8 benefits or other sanction. A statement under this paragraph must include a citation to the state
9 or federal law relied upon by the public body.

10 “[3] (9) If the public record is maintained in a machine readable or electronic form, the
11 custodian shall provide a copy of the public record in the form requested, if available. If the public
12 record is not available in the form requested, the custodian shall make the public record available
13 in the form in which the custodian maintains the public record.

14 “[4(a)] (10)(a) **Subject to paragraphs (b) and (c) of this subsection,** the public body may
15 establish fees reasonably calculated to reimburse the public body for the public body’s actual cost
16 of making public records available, *[including costs for summarizing, compiling or tailoring the public*
17 *records, either in organization or media, to meet the person’s request.] including the actual cost of*
18 **staff time necessarily incurred in responding to the request, the actual costs of paper, elec-**
19 **tronic storage media or other materials requested by and provided to the requester.**

20 “(b)(A) **For purposes of paragraph (a) of this subsection, the actual cost of staff time**
21 **incurred in response to a request may not exceed four times the minimum wage in effect**
22 **under ORS 653.025 at the time the request is made.**

23 “(B) **The limitations on fees in subparagraph (A) of this paragraph do not apply to:**

24 “(i) **Work performed by a medical professional, information technology professional or**
25 **city recorder, or by a licensed, certified or specialized staff person, other than an attorney,**
26 **who is designated by the public body to fulfill the request, but only if the professional or**
27 **specialized expertise being used is necessary to fulfill the request or to determine the extent**
28 **to which requested records are exempt from disclosure.**

29 “(ii) **Any public body, if the sources of funds otherwise available to pay the difference**
30 **between the actual cost of responding to the request and the amount of fees permitted under**
31 **subparagraph (A) of this paragraph are dedicated by trust, the Oregon Constitution or fed-**
32 **eral law to a purpose that does not permit use of the funds for responding to a public records**
33 **request.**

34 “[b] (c) The public body may include in a fee established under paragraph (a) of this subsection
35 the cost of time spent by an attorney for the public body in reviewing the public records, redacting
36 material from the public records or segregating the public records into exempt and nonexempt re-
37 cords. The public body may not include in a fee established under paragraph (a) of this subsection
38 the cost of time spent by an attorney for the public body in determining the application of the pro-
39 visions of ORS 192.410 to 192.505.

40 “[c] (d)(A) The public body may not establish a fee greater than \$25 under this section unless
41 the public body first provides the *[requestor]* **requester** with a written notification of the estimated
42 amount of the fee and the *[requestor]* **requester** confirms that the *[requestor]* **requester** wants the
43 public body to proceed with making the public record available.

44 “(B) **If a public body that provides a method of making payment from a remote location**
45 **provides an estimate of fees that is greater than \$25 and informs the requester that the**

1 **public body requires prepayment of the estimated amount, the public body need not continue**
2 **work on the request until the requester has paid the estimated fee. The applicable timelines**
3 **under subsections (2) to (4) of this section are suspended from the date that the public body**
4 **provides an estimate of the fee until the date the requester pays the estimated fee.**

5 “[*d*] (e) Notwithstanding paragraphs (a) to [*c*] (d) of this subsection, when the public records
6 are those filed with the Secretary of State under ORS chapter 79 or ORS 80.100 to 80.130, the fees
7 for furnishing copies, summaries or compilations of the public records are those established by the
8 Secretary of State by rule, under ORS chapter 79 or ORS 80.100 to 80.130.

9 “[*5*] (11) The custodian of any public record may furnish copies without charge or at a sub-
10 stantially reduced fee if the custodian determines that the waiver or reduction of fees is in the
11 public interest because making the record available primarily benefits the general public.

12 “[*6*] (12) A person who believes that there has been an unreasonable denial of a fee waiver or
13 fee reduction may petition the Attorney General or the district attorney in the same manner as a
14 person petitions when inspection of a public record is denied under ORS 192.410 to 192.505. The
15 Attorney General, the district attorney and the court have the same authority in instances when a
16 fee waiver or reduction is denied as it has when inspection of a public record is denied.

17 “[*7*] (13) A public body shall make available to the public a written procedure for making
18 public record requests that includes:

19 “(a) The name of one or more persons to whom public record requests may be sent, with ad-
20 dresses; and

21 “(b) The amounts of and the manner of calculating fees that the public body charges for re-
22 sponding to requests for public records.

23 “[*8*] (14) This section does not apply to signatures of individuals submitted under ORS chapter
24 247 for purposes of registering to vote as provided in ORS 247.973.

25 “(15) **The failure of a public body to provide a response that complies with subsection (8)**
26 **of this section within the applicable timelines prescribed under subsections (2) to (4) of this**
27 **section is deemed a denial of the request and the requester may petition for review of the**
28 **denial as provided in ORS 192.450, 192.460 or 192.480. The failure of a public body to provide**
29 **a written acknowledgment of the receipt of a request pursuant to subsection (7) of this sec-**
30 **tion is not deemed a denial of the request.**

31 “**SECTION 4. Notwithstanding ORS 192.440 (2) to (4), (8), or (10), the public body and the**
32 **requester of public records from the public body may agree in writing to modify the timelines**
33 **or fees otherwise applicable to a request under ORS 192.440.**

34 “**SECTION 5.** ORS 192.450 is amended to read:

35 “192.450. (1) Subject to ORS 192.480 and subsection (4) of this section, any person denied the
36 right to inspect or to receive a copy of any public record of a state agency may petition the Attor-
37 ney General to review the public record to determine if it may be withheld from public inspection.
38 Except as provided in subsection (5) of this section, the burden is on the agency to sustain its action.
39 Except as provided in subsection (5) of this section, the Attorney General shall issue an order de-
40 denying or granting the petition, or denying it in part and granting it in part, within seven **business**
41 days from the day the Attorney General receives the petition.

42 “(2) If the Attorney General grants the petition and orders the state agency to disclose the re-
43 cord, or if the Attorney General grants the petition in part and orders the state agency to disclose
44 a portion of the record, the state agency shall comply with the order in full within seven **business**
45 days after issuance of the order, unless within the seven-day period it issues a notice of its intention

1 to institute proceedings for injunctive or declaratory relief in the Circuit Court for Marion County
2 or, as provided in subsection (6) of this section, in the circuit court of the county where the record
3 is held. Copies of the notice shall be sent to the Attorney General and by certified mail to the
4 petitioner at the address shown on the petition. The state agency shall institute the proceedings
5 within seven **business** days after it issues its notice of intention to do so. If the Attorney General
6 denies the petition in whole or in part, or if the state agency continues to withhold the record or
7 a part of it notwithstanding an order to disclose by the Attorney General, the person seeking dis-
8 closure may institute such proceedings.

9 “(3) The Attorney General shall serve as counsel for the state agency in a suit filed under sub-
10 section (2) of this section if the suit arises out of a determination by the Attorney General that the
11 public record should not be disclosed, or that a part of the public record should not be disclosed if
12 the state agency has fully complied with the order of the Attorney General requiring disclosure of
13 another part or parts of the public record, and in no other case. In any case in which the Attorney
14 General is prohibited from serving as counsel for the state agency, the agency may retain special
15 counsel.

16 “(4) A person denied the right to inspect or to receive a copy of any public record of a health
17 professional regulatory board, as defined in ORS 676.160, that contains information concerning a
18 licensee or applicant, and petitioning the Attorney General to review the public record shall, on or
19 before the date of filing the petition with the Attorney General, send a copy of the petition by first
20 class mail to the health professional regulatory board. Not more than [48 hours] **two business days**
21 after the board receives a copy of the petition, the board shall send a copy of the petition by first
22 class mail to the licensee or applicant who is the subject of any record for which disclosure is
23 sought. When sending a copy of the petition to the licensee or applicant, the board shall include a
24 notice informing the licensee or applicant that a written response by the licensee or applicant may
25 be filed with the Attorney General not later than seven **business** days after the date that the notice
26 was sent by the board. Immediately upon receipt of any written response from the licensee or ap-
27 plicant, the Attorney General shall send a copy of the response to the petitioner by first class mail.

28 “(5) The person seeking disclosure of a public record of a health professional regulatory board,
29 as defined in ORS 676.160, that is confidential or exempt from disclosure under ORS 676.165 or
30 676.175, shall have the burden of demonstrating to the Attorney General by clear and convincing
31 evidence that the public interest in disclosure outweighs other interests in nondisclosure, including
32 but not limited to the public interest in nondisclosure. The Attorney General shall issue an order
33 denying or granting the petition, or denying or granting it in part, not later than the 15th **business**
34 day following the day that the Attorney General receives the petition. A copy of the Attorney
35 General’s order granting a petition or part of a petition shall be served by first class mail on the
36 health professional regulatory board, the petitioner and the licensee or applicant who is the subject
37 of any record ordered to be disclosed. The health professional regulatory board shall not disclose
38 any record prior to the seventh **business** day following the service of the Attorney General’s order
39 on a licensee or applicant entitled to receive notice under this subsection.

40 “(6) If the Attorney General grants or denies the petition for a record of a health professional
41 regulatory board, as defined in ORS 676.160, that contains information concerning a licensee or ap-
42 plicant, the board, a person denied the right to inspect or receive a copy of the record or the
43 licensee or applicant who is the subject of the record may institute proceedings for injunctive or
44 declaratory relief in the circuit court for the county where the public record is held. The party
45 seeking disclosure of the record shall have the burden of demonstrating by clear and convincing

1 evidence that the public interest in disclosure outweighs other interests in nondisclosure, including
2 but not limited to the public interest in nondisclosure.

3 “(7) The Attorney General may comply with a request of a health professional regulatory board
4 to be represented by independent counsel in any proceeding under subsection (6) of this section.

5 “**SECTION 6.** ORS 192.465 is amended to read:

6 “192.465. (1) The failure of the Attorney General or district attorney to issue an order under
7 ORS 192.450 or 192.460 denying, granting, or denying in part and granting in part a petition to re-
8 quire disclosure within seven **business** days from the day of receipt of the petition shall be treated
9 as an order denying the petition for the purpose of determining whether a person may institute
10 proceedings for injunctive or declaratory relief under ORS 192.450 or 192.460.

11 “(2) The failure of an elected official to deny, grant, or deny in part and grant in part a request
12 to inspect or receive a copy of a public record within seven **business** days from the day of receipt
13 of the request shall be treated as a denial of the request for the purpose of determining whether a
14 person may institute proceedings for injunctive or declaratory relief under ORS 192.450 or 192.460.

15 “**SECTION 7.** ORS 192.480 is amended to read:

16 “192.480. (1) In any case in which a person is denied the right to inspect or to receive a copy
17 of a public record in the custody of [*an elected official*] **a person described in subsection (2) of this**
18 **section**, or in the custody of any other person but as to which [*an elected official*] **a person de-**
19 **scribed in subsection (2) of this section** claims the right to withhold disclosure, no petition to
20 require disclosure may be filed with the Attorney General or district attorney, or if a petition is
21 filed it shall not be considered by the Attorney General or district attorney after a claim of right
22 to withhold disclosure by an elected official. In such case a person denied the right to inspect or
23 to receive a copy of a public record may institute proceedings for injunctive or declaratory relief
24 in the appropriate circuit court, as specified in ORS 192.450 or 192.460, [*and the*] **except as other-**
25 **wise provided under subsection (3) of this section.** The Attorney General or district attorney
26 may upon request serve or decline to serve, in the discretion of the Attorney General or district
27 attorney, as counsel in such suit for [*an elected official*] **a person described in subsection (2) of**
28 **this section** for which the Attorney General or district attorney ordinarily serves as counsel.
29 Nothing in this section shall preclude [*an elected official*] **a person described in subsection (2) of**
30 **this section** from requesting advice from the Attorney General or a district attorney as to whether
31 a public record should be disclosed.

32 “(2) **This section applies to:**

33 “(a) **Judicial officers, as defined in ORS 1.210;**

34 “(b) **The Judicial Department;**

35 “(c) **The Legislative Assembly, members of the Legislative Assembly, statutory commit-**
36 **tees and statutory offices of the Legislative Assembly;**

37 “(d) **Persons holding the office of sheriff under Article VI of the Oregon Constitution; and**

38 “(e) **Persons holding the office of prosecuting attorney under Article VII (Original) of the**
39 **Oregon Constitution.**

40 “(3) **A person denied the right to inspect or receive a copy of a public record by a judge**
41 **in a circuit court or the Oregon Tax Court in a pending case, or by a judge in the Court of**
42 **Appeals or a judge of the Supreme Court or the Chief Justice, may challenge the determi-**
43 **nation by filing a petition for a writ of mandamus in the Supreme Court as prescribed in ORS**
44 **34.105 to 34.240.**

45 “**SECTION 8.** ORS 192.490 is amended to read:

1 “192.490. (1) In any suit filed under ORS 192.450, 192.460, 192.470 or 192.480, the court has ju-
2 risdiction to enjoin the public body from withholding records and to order the production of any
3 records improperly withheld from the person seeking disclosure. The court shall determine the
4 matter de novo and the burden is on the public body to sustain its action. The court, on its own
5 motion, may view the documents in controversy in camera before reaching a decision. Any non-
6 compliance with the order of the court may be punished as contempt of court.

7 “(2) Except as to causes the court considers of greater importance, proceedings arising under
8 ORS 192.450, 192.460, 192.470 or 192.480 take precedence on the docket over all other causes and
9 shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

10 “(3) If a person seeking the right to inspect or to receive a copy of a public record prevails in
11 the suit, the person shall be awarded costs and disbursements and reasonable attorney fees at trial
12 and on appeal. If the person prevails in part, the court may in its discretion award the person costs
13 and disbursements and reasonable attorney fees at trial and on appeal, or an appropriate portion
14 thereof. If the state agency failed to comply with the Attorney General’s order in full and did not
15 issue a notice of intention to institute proceedings pursuant to ORS 192.450 (2) within seven **busi-**
16 **ness** days after issuance of the order, or did not institute the proceedings within seven **business**
17 days after issuance of the notice, the petitioner shall be awarded costs of suit at the trial level and
18 reasonable attorney fees regardless of which party instituted the suit and regardless of which party
19 prevailed therein.

20 “**SECTION 9.** (1) **Except in cases where the law specifically creates a right of action based**
21 **on the disclosure of particular information or records, a public body or an official, volunteer,**
22 **employee or agent of a public body may not be held liable to any person as the result of a**
23 **disclosure made in a good faith attempt to comply with ORS 192.410 to 192.505.**

24 “(2) **If a public body inadvertently discloses records that are privileged under ORS 40.225**
25 **to 40.295, the inadvertent disclosure does not constitute a waiver of the privilege if:**

26 “(a) **A large volume of nonprivileged records are disclosed in response to the same re-**
27 **quest for disclosure; and**

28 “(b) **Either the public body reasonably did not expect privileged materials to be among**
29 **the materials disclosed or the public body searched for privileged materials in a manner that**
30 **was reasonable under the circumstances.**

31 “(3) **Subsection (2) of this section may not be construed to prevent a public body from**
32 **reviewing requested documents in a manner calculated to avoid the disclosure of privileged**
33 **materials.**

34 “**SECTION 10.** **The Attorney General shall develop:**

35 “(1) **Training materials designed to generally educate public employees with respect to**
36 **the requirements of ORS 192.410 to 192.505 and make those materials freely available on the**
37 **Attorney General’s website; and**

38 “(2) **Model public record request forms that a requester may use in making a request.**

39
40 “**EXEMPTIONS FROM DISCLOSURE OF PUBLIC RECORDS**

41
42 “**SECTION 11. Exemptions from disclosure of public records relating to criminal investi-**
43 **gations.** (1) **Investigatory information compiled for criminal law purposes is exempt from**
44 **disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the**
45 **particular instance. The record of an arrest or the report of a crime shall be disclosed unless**

1 and only for so long as there is a clear need to delay disclosure in the course of a specific
2 investigation, including the need to protect the complaining party or the victim. Nothing in
3 this subsection shall limit any right constitutionally guaranteed, or granted by statute, to
4 disclosure or discovery in criminal cases. For purposes of this subsection, the record of an
5 arrest or the report of a crime includes, but is not limited to:

6 “(a) The arrested person’s name, age, residence, employment, marital status and similar
7 biographical information;

8 “(b) The offense with which the arrested person is charged;

9 “(c) The conditions of release pursuant to ORS 135.230 to 135.290;

10 “(d) The identity of and biographical information concerning both complaining party and
11 victim;

12 “(e) The identity of the investigating and arresting agency and the length of the investi-
13 gation;

14 “(f) The circumstances of arrest, including time, place, resistance, pursuit and weapons
15 used; and

16 “(g) Such information as may be necessary to enlist public assistance in apprehending
17 fugitives from justice.

18 “(2) Public records relating to criminal investigations and made confidential by a statute
19 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505, except to
20 the extent a statute listed in this subsection authorizes disclosure of the public record:

21 “(a) ORS 40.225 to 40.295 (privileged communications).

22 “(b) ORS 133.723 (applications for interception of communications).

23 “(c) ORS 135.155 (defendant statements and preliminary hearing records).

24 “(d) ORS 137.077 (presentence reports).

25 “(e) ORS 165.673 (phone numbers produced by pin registers or trap and trace devices).

26 “(f) ORS 180.075 (information obtained under subpoena).

27 “(g) ORS 181.852 (undercover law enforcement officer information).

28 “(h) ORS 476.090 (investigatory testimony).

29 “(i) ORS 807.725 (fictitious driver license or identification cards).

30 “(j) ORS 137.225 (criminal arrest and conviction set aside orders and related records).

31 “SECTION 12. Exemptions from disclosure of public records relating to noncriminal in-
32 vestigations. (1) The following public records relating to noncriminal investigations are ex-
33 empt from disclosure under ORS 192.410 to 192.505 unless the public interest requires
34 disclosure in the particular instance:

35 “(a) Investigatory information relating to any complaint filed under ORS 659A.820 or
36 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order
37 is issued under ORS 659A.850.

38 “(b) Investigatory information relating to any complaint or charge filed under ORS
39 243.676 and 663.180.

40 “(c) Investigatory information relating to any complaint or charge filed under ORS
41 chapter 654, until a final administrative determination is made or, if a citation is issued, until
42 an employer receives notice of any citation.

43 “(2) Public records relating to noncriminal investigations and made confidential by a
44 statute listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505,
45 except to the extent a statute listed in this subsection authorizes disclosure of the public

- 1 **record:**
- 2 “(a) ORS 1.303, 1.425 and 1.440 (judicial fitness and disability records).
- 3 “(b) ORS 41.675 (records of peer review bodies of health care providers and health care
- 4 **groups).**
- 5 “(c) ORS 171.778 (Oregon Government Ethics Commission records).
- 6 “(d) ORS 342.176 (Teacher Standards and Practices Commission records).
- 7 “(e) ORS 423.430 and 423.440 (Corrections Ombudsman records).
- 8 “(f) ORS 441.055 (health care facility peer review committee records).
- 9 “(g) ORS 673.710 and 673.730 (State Board of Tax Practitioners records, including records
- 10 **furnished by the Department of Revenue).**
- 11 “(h) ORS 675.075 (State Board of Psychologist Examiners records).
- 12 “(i) ORS 675.300 (Occupational Therapy Licensing Board records).
- 13 “(j) ORS 675.540, 675.583 and 675.585 (State Board of Licensed Social Workers records).
- 14 “(k) ORS 675.745 (Oregon Board of Licensed Professional Counselors and Therapists re-
- 15 **records).**
- 16 “(L) ORS 676.165 (complaints, investigatory materials and related public records of health
- 17 **professional regulatory boards or the Oregon Health Licensing Agency).**
- 18 “(m) ORS 677.425 (Oregon Medical Board records).
- 19 “(n) ORS 679.140, 679.280 and 679.320 (Oregon Board of Dentistry records).
- 20 “(o) ORS 682.220 (Oregon Health Authority records relating to ambulance services).
- 21 “(p) ORS 685.115 and 685.205 (Oregon Board of Naturopathic Medicine records).
- 22 “(q) ORS 687.490 (State Board of Direct Entry Midwifery or Oregon Health Licensing
- 23 **Agency records).**
- 24 “(r) ORS 688.230 (Physical Therapist Licensing Board records).
- 25 “(s) ORS 688.525 and 688.605 (Board of Medical Imaging records).
- 26 “(t) ORS 689.455 (State Board of Pharmacy records).
- 27 “(u) ORS 703.480 (Department of Public Safety Standards and Training records related
- 28 **to investigations of violations of ORS 703.401 to 703.490).**
- 29 “(v) ORS 731.264 (complaints and related public records of the Department of Consumer
- 30 **and Business Services concerning persons regulated by the Insurance Code).**
- 31 “(w) ORS 279C.815 (records related to determinations of prevailing rate of wage for
- 32 **workers).**
- 33 “(x) ORS 441.057 (records concerning standards of care at health care facilities).
- 34 “(y) ORS 443.355 (records concerning care or services provided by home health agencies,
- 35 **in-home care agencies, referral agencies or caregiver registries).**
- 36 “(z) ORS 618.506 (security seal violation records).
- 37 “(aa) ORS 646A.164 (records regarding service contracts regulated under ORS 646A.150
- 38 **to 646A.172).**
- 39 “(bb) ORS 671.550 (State Landscape Contractors Board records).
- 40 “(cc) ORS 678.126 (Oregon State Board of Nursing records).
- 41 “(dd) ORS 683.165 and 683.335 (Oregon Board of Optometry records).
- 42 “(ee) ORS 684.100 and 684.185 (State Board of Chiropractic Examiners records and records
- 43 **of peer review committees established by the State Board of Chiropractic Examiners).**
- 44 “(ff) ORS 686.135 (Oregon State Veterinary Medical Examining Board records).
- 45 “(gg) ORS 687.081 (State Board of Massage Therapists records).

1 “(hh) ORS 691.585 (Board of Examiners of Licensed Dietitians records).

2 “(ii) ORS 692.180 and 692.230 (State Mortuary and Cemetery Board records).

3 “(jj) ORS 744.079 (records relating to the termination of an insurance business relation-
4 ship in the control or possession of the Director of the Department of Consumer and Busi-
5 ness Services).

6 “(kk) ORS 9.568 (records of a state lawyers assistance committee or personal and prac-
7 tice management assistance committee).

8 “SECTION 13. Exemptions from disclosure of public records relating to personal privacy.

9 (1) Except as otherwise provided by law, information of a personal nature is exempt from
10 disclosure under ORS 192.410 to 192.505 if the public disclosure of the information would
11 constitute an unreasonable invasion of privacy, unless the public interest by clear and con-
12 vincing evidence requires disclosure in the particular instance. The party seeking disclosure
13 shall have the burden of showing that public disclosure would not constitute an unreasonable
14 invasion of privacy.

15 “(2) Public records relating to health information and made confidential by a statute
16 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505, except to
17 the extent a statute listed in this subsection authorizes disclosure of the public record:

18 “(a) ORS 40.225 to 40.295 (privileged communications).

19 “(b) ORS 135.139 (records related to testing for HIV and other communicable diseases of
20 persons charged with crimes).

21 “(c) ORS 146.184 (records related to missing persons).

22 “(d) ORS 146.780 (records related to injuries).

23 “(e) ORS 179.495 and 179.505 (inmate health records).

24 “(f) ORS 181.085 (blood and buccal sample records).

25 “(g) ORS 192.537 and 192.539 (records of genetic information).

26 “(h) ORS 414.390 (Drug Use Review Board records).

27 “(i) ORS 430.475 (drug use evaluation records).

28 “(j) ORS 431.627 and 431.635 (State Trauma Advisory Board and area trauma advisory
29 board records).

30 “(k) ORS 431.966 (prescription monitoring program records).

31 “(L) ORS 432.337 (termination of pregnancy records).

32 “(m) ORS 432.530 (cancer diagnosis and treatment records).

33 “(n) ORS 433.008, 433.045, 433.075, 433.123, and 433.423 (reportable disease and quarantine
34 petition records).

35 “(o) ORS 441.113, 441.650, 441.660 and 441.671 (long term care patient records).

36 “(p) ORS 442.745 (cooperative program agreement records).

37 “(q) ORS 444.330 (childhood diabetes database records).

38 “(r) ORS 475.331 (medical marijuana registry records).

39 “(s) ORS 656.327 (worker compensation medical review panel records).

40 “(t) ORS 675.580 (regulated social worker communications with clients).

41 “(u) ORS 675.765 (licensed professional counselor and therapist communications with cli-
42 ents).

43 “(v) ORS 676.195 (impaired health professional program records).

44 “(w) ORS 807.710 (cognitive or functional impairment reports required by the Department
45 of Transportation).

1 “(x) ORS 41.685 (emergency medical services system records).

2 “(3) The following public records relating to educational information are exempt from
3 disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the
4 particular instance:

5 “(a) The electronic mail address of a student who attends a state institution of higher
6 education listed in ORS 352.002 or Oregon Health and Science University.

7 “(b) Personal information held by or under the direction of officials of the Oregon Health
8 and Science University or the Oregon University System about a person who has or who is
9 interested in donating money or property to the university, the system or a state institution
10 of higher education, if the information is related to the family of the person, personal assets
11 of the person or is incidental information not related to the donation.

12 “(c) The home address, professional address and telephone number of a person who has
13 or who is interested in donating money or property to the Oregon University System.

14 “(4) Public records relating to educational information and made confidential by a statute
15 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505, except to
16 the extent a statute listed in this subsection authorizes disclosure of the public record:

17 “(a) ORS 40.225 to 40.295 (privileged communications).

18 “(b) ORS 326.565 and rules adopted thereunder (student records).

19 “(c) ORS 326.589 (Social Security numbers of community college students).

20 “(d) ORS 337.288 (Spread the Word Program records).

21 “(e) ORS 339.323 and 339.326 (records relating to students charged with crimes or subject
22 to juvenile court jurisdiction).

23 “(f) ORS 339.378 (school employee reports of child abuse or sexual conduct).

24 “(g) ORS 341.290 and rules adopted thereunder (records of community college district
25 students and faculty).

26 “(h) ORS 344.530 and 344.600 (vocational rehabilitation records).

27 “(i) ORS 351.070 and rules adopted thereunder (Oregon University System student re-
28 cords).

29 “(5) The following public records relating to personal privacy are exempt from disclosure
30 under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular
31 instance:

32 “(a) The residence address of an elector if authorized under ORS 247.965 and subject to
33 ORS 247.967.

34 “(b) The following records, communications and information submitted to a housing au-
35 thority as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010,
36 by applicants for and recipients of loans, grants and tax credits:

37 “(A) Personal and corporate financial statements and information, including tax returns;

38 “(B) Credit reports;

39 “(C) Project appraisals;

40 “(D) Market studies and analyses;

41 “(E) Articles of incorporation, partnership agreements and operating agreements;

42 “(F) Commitment letters;

43 “(G) Project pro forma statements;

44 “(H) Project cost certifications and cost data;

45 “(I) Audits;

1 “(J) Project tenant correspondence requested to be confidential;

2 “(K) Tenant files relating to certification; and

3 “(L) Housing assistance payment requests.

4 “(c) Information provided to or obtained or used by a public body to authorize, originate,
5 receive or authenticate a transfer of funds, including but not limited to a credit card num-
6 ber, payment card expiration date, password, financial institution account number and fi-
7 nancial institution routing number.

8 “(d) Land management plans required for voluntary stewardship agreements entered into
9 under ORS 541.423.

10 “(e) A medical examiner’s report, autopsy report or laboratory test report ordered by a
11 medical examiner under ORS 146.117.

12 “(6) The following public records relating to personal privacy are exempt from disclosure
13 under ORS 192.410 to 192.505:

14 “(a) Reports made to or filed with the court under ORS 137.077 or 137.530.

15 “(b) All information supplied by a person under ORS 151.485 for the purpose of requesting
16 appointed counsel, and all information supplied to the court from whatever source for the
17 purpose of verifying the financial eligibility of a person pursuant to ORS 151.485.

18 “(c) The records of a library, including:

19 “(A) Circulation records, showing use of specific library material by a named person;

20 “(B) The name of a library patron together with the address or telephone number of the
21 patron; and

22 “(C) The electronic mail address of a patron.

23 “(d) Raster geographic information system (GIS) digital databases, provided by private
24 forestland owners or their representatives, voluntarily and in confidence to the State
25 Forestry Department, that are not otherwise required by law to be submitted.

26 “(e) Personally identifiable information about customers of a municipal electric utility
27 or a people’s utility district or the names, dates of birth, driver license numbers, telephone
28 numbers, electronic mail addresses or Social Security numbers of customers who receive
29 water, sewer or storm drain services from a public body as defined in ORS 174.109. The utility
30 or district may release personally identifiable information about a customer, and a public
31 body providing water, sewer or storm drain services may release the name, date of birth,
32 driver license number, telephone number, electronic mail address or Social Security number
33 of a customer, if the customer consents in writing or electronically, if the disclosure is
34 necessary for the utility, district or other public body to render services to the customer, if
35 the disclosure is required pursuant to a court order or if the disclosure is otherwise required
36 by federal or state law. The utility, district or other public body may charge as appropriate
37 for the costs of providing such information. The utility, district or other public body may
38 make customer records available to third party credit agencies on a regular basis in con-
39 nection with the establishment and management of customer accounts or in the event such
40 accounts are delinquent.

41 “(f) A record of the street and number of an employee’s address submitted to a special
42 district to obtain assistance in promoting an alternative to single occupant motor vehicle
43 transportation.

44 “(g) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court
45 designates the information as confidential by rule under ORS 1.002.

1 “(h)(A) Claimant files of the State Accident Insurance Fund Corporation.
2 “(B) As used in this paragraph, ‘claimant files’ includes, but is not limited to, all records
3 held by the corporation pertaining to a person who has made a claim, as defined in ORS
4 656.005, and all records pertaining to such a claim.
5 “(C) The exemption provided by this paragraph may not serve as the basis for opposition
6 to the discovery of documents in litigation pursuant to applicable rules of civil procedure.
7 “(i) Except as authorized by ORS 408.425, records that certify or verify an individual’s
8 discharge or other separation from military service.
9 “(7) Public records relating to personal privacy and made confidential by a statute listed
10 in this subsection are exempt from disclosure under ORS 192.410 to 192.505, except to the
11 extent a statute listed in this subsection authorizes disclosure of the public record:
12 “(a) ORS 40.225 to 40.295 (privileged communications).
13 “(b) ORS 3.450 (drug court program records).
14 “(c) ORS 7.211 (adoption proceeding records).
15 “(d) ORS 10.205 to 10.265 and 10.275 (jury related records).
16 “(e) ORS 25.260 (Child Support Program records).
17 “(f) ORS 25.792 (Child Support Program employer hiring records).
18 “(g) ORS 90.771 (Office of Manufactured Dwelling Park Community Relations landlord-
19 tenant dispute records).
20 “(h) ORS 107.600 (domestic relations conciliation jurisdiction records).
21 “(i) ORS 107.785 (domestic relations mediation proceeding records).
22 “(j) ORS 107.840 (Social Security numbers of parties to a domestic relations proceeding).
23 “(k) ORS 109.440, 109.445 and 109.503 (adoption proceeding records).
24 “(L) ORS 118.525 (inheritance tax records).
25 “(m) ORS 151.495 (records for determination of eligibility for appointed counsel in crimi-
26 nal matters).
27 “(n) ORS 161.336 (Psychiatric Security Review Board records).
28 “(o) ORS 173.850 (Legislative Revenue Officer records received from the Department of
29 Revenue).
30 “(p) ORS 180.320 (Department of Justice Division of Child Support records).
31 “(q) ORS 181.534, 181.537, 181.548 and 181.592 (records related to criminal record back-
32 ground checks and criminal offender records).
33 “(r) ORS 192.517 (records of individuals with disability or mental illness).
34 “(s) ORS 242.722 (Civil Service Commission records).
35 “(t) ORS 243.960 (Public Safety Memorial Fund applicant records).
36 “(u) ORS 247.973 (identifying information relating to voter registration records).
37 “(v) ORS 297.060 (information furnished by the Department of Revenue to the Secretary
38 of State for audit purposes).
39 “(w) ORS 314.860 (elderly rental assistance records).
40 “(x) ORS 346.150, 346.165 and 346.167 (Commission for the Blind records).
41 “(y) ORS 403.135 (automatic telephone identification numbers received by public safety
42 answering points).
43 “(z) ORS 408.425 (military discharge records).
44 “(aa) ORS 409.225 and 409.230 (child welfare records and Department of Human Services
45 reports relating to child histories or prognoses).

1 “(bb) ORS 410.150, 410.480 and 410.535 (Department of Human Services records related to
2 applicants and recipients of services and client information gathered during admission as-
3 sements).

4 “(cc) ORS 411.320 and 411.335 (public assistance records).

5 “(dd) ORS 412.074 and 412.094 (temporary assistance to needy families program records).

6 “(ee) ORS 417.815 (Office of Children’s Advocate child abuse records).

7 “(ff) ORS 418.250, 418.642, 418.794 and 418.795 (records related to child welfare services).

8 “(gg) ORS 426.370 (community mental health program commitment investigation re-
9 cords).

10 “(hh) ORS 432.121, 432.408, 432.412, 432.420 and 432.430 (vital records and vital reports).

11 “(ii) ORS 657.734 (Performance Reporting Information System individual records).

12 “(jj) ORS 660.318 and 660.339 (workforce program participant records).

13 “(kk) ORS 673.415 (tax return signature block records furnished by the Department of
14 Revenue to the Oregon Board of Accountancy).

15 “(LL) ORS 701.246 (Construction Contractors Board applicant and licensee records).

16 “(mm) ORS 703.473 (Department of Public Safety Standards and Training investigator
17 personal information).

18 “(nn) ORS 706.730 (depositor and debtor information in possession of Department of
19 Consumer and Business Services).

20 “(oo) ORS 744.346 (insurance licensee records).

21 “(pp) ORS 802.177, 802.181, 802.195 and 807.115 (driver license applicant and licensee re-
22 cords).

23 “(qq) ORS 107.179 and 107.767 (child custody proceeding records).

24 “(rr) ORS 125.240 (professional fiduciary background check records).

25 “(ss) ORS 166.412 (firearm transaction background check records).

26 “(tt) ORS 676.405 and 676.410 (personal information of persons licensed, registered or
27 certified by health professional regulatory boards or healthcare workforce regulatory
28 boards).

29 “(uu) ORS 97.977 and 802.220 (anatomical donation and donor records).

30 “(vv) ORS 419A.255, 419A.256 and 419A.257 (juvenile proceeding records).

31 “(ww) ORS 427.293 (involuntary civil commitment records).

32 “**SECTION 14. Exemptions from disclosure of public records relating to business.** (1) The
33 following public records relating to business are exempt from disclosure under ORS 192.410
34 to 192.505 unless the public interest requires disclosure in the particular instance:

35 “(a) Trade secrets. ‘Trade secrets,’ as used in this paragraph, may include, but is not
36 limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, pro-
37 duction data or compilation of information that is not patented, that is known only to certain
38 individuals within an organization and that is used in a business the organization conducts,
39 having actual or potential commercial value, and that gives its user an opportunity to obtain
40 a business advantage over competitors who do not know or use it.

41 “(b) Information consisting of production records, sale or purchase records or catch re-
42 cords, or similar business records of a private concern or enterprise, required by law to be
43 submitted to or inspected by a governmental body to allow the body to determine fees or
44 assessments payable or to establish production quotas, and the amounts of such fees or as-
45 sements payable or paid, to the extent that such information is in a form that would per-

1 mit identification of the individual concern or enterprise. This exemption does not include
2 records submitted by long term care facilities as defined in ORS 442.015 to the state for
3 purposes of reimbursement of expenses or determining fees for patient care. Nothing in this
4 paragraph shall limit the use that can be made of such information for regulatory purposes
5 or the admissibility of such information in any enforcement proceeding.

6 “(c) Records, reports and other information received or compiled by the Director of the
7 Department of Consumer and Business Services under ORS 697.732.

8 “(d) Records of the name and address of a person who files a report with or pays an as-
9 sessment to a commodity commission established under ORS 576.051 to 576.455, the Oregon
10 Beef Council created under ORS 577.210 or the Oregon Wheat Commission created under
11 ORS 578.030.

12 “(e) Sensitive business records or financial or commercial information of the State Ac-
13 cident Insurance Fund Corporation that is not customarily provided to business competitors.
14 This exemption does not:

15 “(A) Apply to the formulas for determining dividends to be paid to employers insured by
16 the State Accident Insurance Fund Corporation;

17 “(B) Apply to contracts for advertising, public relations or lobbying services or to docu-
18 ments related to the formation of such contracts;

19 “(C) Apply to group insurance contracts or to documents relating to the formation of
20 such contracts, except that employer account records shall remain exempt from disclosure
21 as provided in subsection (2)(g) of this section; or

22 “(D) Provide the basis for opposing the discovery of documents in litigation pursuant to
23 the applicable rules of civil procedure.

24 “(2) The following public records relating to business are exempt from disclosure under
25 ORS 192.410 to 192.505:

26 “(a) Records, reports and other information received or compiled by the Director of the
27 Department of Consumer and Business Services in the administration of ORS chapters 723
28 and 725 not otherwise required by law to be made public, to the extent that the interests of
29 lending institutions, their officers, employees and customers in preserving the confidentiality
30 of such information outweighs the public interest in disclosure.

31 “(b)(A) The following records, communications and information submitted to the Oregon
32 Business Development Commission, the Oregon Business Development Department, the
33 State Department of Agriculture, the Oregon Growth Account Board, the Port of Portland
34 or other ports, as defined in ORS 777.005, by applicants for investment funds, loans or ser-
35 vices including, but not limited to, those described in ORS 285A.224:

36 “(i) Personal financial statements.

37 “(ii) Financial statements of applicants.

38 “(iii) Customer lists.

39 “(iv) Information of an applicant pertaining to litigation to which the applicant is a party
40 if the complaint has been filed, or if the complaint has not been filed, if the applicant shows
41 that such litigation is reasonably likely to occur, except that this exemption does not apply
42 to litigation that has been concluded and nothing in this sub-subparagraph shall limit any
43 right or opportunity granted by discovery or deposition statutes to a party to litigation or
44 potential litigation.

45 “(v) Production, sales and cost data.

1 “(vi) Marketing strategy information that relates to an applicant’s plan to address spe-
2 cific markets and the applicant’s strategy regarding specific competitors.

3 “(B) The following records, communications and information submitted to the State De-
4 partment of Energy by applicants for tax credits:

5 “(i) Personal financial statements.

6 “(ii) Financial statements of applicants.

7 “(iii) Customer lists.

8 “(iv) Information of an applicant pertaining to litigation to which the applicant is a party
9 if the complaint has been filed, or if the complaint has not been filed, if the applicant shows
10 that the litigation is reasonably likely to occur, except that this exemption does not apply
11 to litigation that has been concluded, and nothing in this sub-subparagraph shall limit any
12 right or opportunity granted by discovery or deposition statutes to a party to litigation or
13 potential litigation.

14 “(v) Production, sales and cost data.

15 “(vi) Marketing strategy information that relates to an applicant’s plan to address spe-
16 cific markets and the applicant’s strategy regarding specific competitors.

17 “(c) Records, reports or returns submitted by private concerns or enterprises required
18 by law to be submitted to or inspected by a governmental body to allow the governmental
19 body to determine the amount of any transient lodging tax payable and the amounts of such
20 tax payable or paid, to the extent that such information is in a form that would permit
21 identification of the individual concern or enterprise. Nothing in this paragraph shall limit
22 the use that can be made of such information for regulatory purposes or the admissibility
23 of such information in any enforcement proceedings. The public body shall notify the tax-
24 payer of the delinquency immediately by certified mail. However, in the event that the pay-
25 ment or delivery of transient lodging taxes otherwise due to a public body is delinquent by
26 over 60 days, the public body shall disclose, upon the request of any person, the following
27 information:

28 “(A) The identity of the individual concern or enterprise that is delinquent over 60 days
29 in the payment or delivery of the taxes.

30 “(B) The period for which the taxes are delinquent.

31 “(C) The actual, or estimated, amount of the delinquency.

32 “(d) Workers’ compensation claim records of the Department of Consumer and Business
33 Services, except in accordance with rules adopted by the Director of the Department of
34 Consumer and Business Services, in any of the following circumstances:

35 “(A) When necessary for insurers, self-insured employers and third party claim admin-
36 istrators to process workers’ compensation claims.

37 “(B) When necessary for the director, other governmental agencies of this state or the
38 United States to carry out their duties, functions or powers.

39 “(C) When the disclosure is made in such a manner that the disclosed information cannot
40 be used to identify any worker who is the subject of a claim.

41 “(D) When a worker or the worker’s representative requests review of the worker’s
42 claim record.

43 “(e) The following records, communications and information obtained by the Housing and
44 Community Services Department in connection with the department’s monitoring or admin-
45 istration of financial assistance or of housing or other developments:

- 1 **“(A) Personal and corporate financial statements and information, including tax returns.**
2 **“(B) Credit reports.**
3 **“(C) Project appraisals.**
4 **“(D) Market studies and analyses.**
5 **“(E) Articles of incorporation, partnership agreements and operating agreements.**
6 **“(F) Commitment letters.**
7 **“(G) Project pro forma statements.**
8 **“(H) Project cost certifications and cost data.**
9 **“(I) Audits.**
10 **“(J) Project tenant correspondence.**
11 **“(K) Personal information about a tenant.**
12 **“(L) Housing assistance payments.**
13 **“(f) Sensitive business, commercial or financial information furnished to or developed by**
14 **a public body engaged in the business of providing electricity or electricity services, if the**
15 **information is directly related to a transaction described in ORS 261.348, or if the informa-**
16 **tion is directly related to a bid, proposal or negotiations for the sale or purchase of elec-**
17 **tricity or electricity services, and disclosure of the information would cause a competitive**
18 **disadvantage for the public body or its retail electricity customers. This paragraph does not**
19 **apply to cost-of-service studies used in the development or review of generally applicable rate**
20 **schedules.**
21 **“(g)(A) Employer account records of the State Accident Insurance Fund Corporation.**
22 **“(B) As used in this paragraph, ‘employer account records’ means all records maintained**
23 **in any form that are specifically related to the account of any employer insured, previously**
24 **insured or under consideration to be insured by the State Accident Insurance Fund Corpo-**
25 **ration and any information obtained or developed by the corporation in connection with**
26 **providing, offering to provide or declining to provide insurance to a specific employer. ‘Em-**
27 **ployer account records’ includes, but is not limited to, an employer’s payroll records, pre-**
28 **mium payment history, payroll classifications, employee names and identification**
29 **information, experience modification factors, loss experience and dividend payment history.**
30 **“(C) The exemption provided by this paragraph may not serve as the basis for opposition**
31 **to the discovery documents in litigation pursuant to applicable rules of civil procedure.**
32 **“(3) Public records relating to business and made confidential by a statute listed in this**
33 **subsection are exempt from disclosure under ORS 192.410 to 192.505, except to the extent a**
34 **statute listed in this subsection authorizes disclosure of the public record:**
35 **“(a) ORS 465.300 (hazardous waste cleanup financial assistance records).**
36 **“(b) ORS 466.090 and 466.800 (hazardous waste and underground storage tank records).**
37 **“(c) ORS 468.963 (environmental audit records).**
38 **“(d) ORS 469.090 (energy resource records).**
39 **“(e) ORS 517.705 (mineral production records).**
40 **“(f) ORS 520.097 and 522.365 (well and geothermal well records).**
41 **“(g) ORS 646.574 (telephone solicitation program records).**
42 **“(h) ORS 646.836 (antitrust investigation records).**
43 **“(i) ORS 654.120 (employer safety and health hazard evaluation records).**
44 **“(j) ORS 697.732 (debt consolidation records).**
45 **“(k) ORS 705.137 (Department of Business and Consumer Services regulatory records).**

1 “(L) ORS 706.720 (Bank Act records).
2 “(m) ORS 723.118 (credit union records).
3 “(n) ORS 731.312, 731.750, 731.752, 731.761, 731.762, 735.425 and 743.018 (insurance records).
4 “(o) ORS 744.087 (insurance producer compensation records).
5 “(p) ORS 777.793 and 777.795 (export trading corporation commercial or financial records).
6 “(q) ORS 94.974 (membership camping contract records).
7 “(r) ORS 190.050 and 268.357 (intergovernmental group or metropolitan service district
8 information technology and geographic databases and systems).
9 “(s) ORS 192.555 (financial institution disclosures of records).
10 “(t) ORS 308.290 (personal property tax return records).
11 “(u) ORS 305.192 and 308.411 (industrial plant appraisal records).
12 “(v) ORS 320.340 (state transient lodging tax records).
13 “(w) ORS 348.710 (Oregon Growth Account records).
14 “(x) ORS 383.025 (tollway project feasibility records).
15 “(y) ORS 824.092 (hazardous waste transportation program records).
16 “(z) ORS 279B.060, 279B.110, 279C.410 and 279C.850 (competitive sealed bids, information
17 furnished by bidders, contract proposals and related public contracting records).
18 “(aa) ORS 285C.615 and 285C.620 (strategic investment program records).
19 “(bb) ORS 286A.190 (bond ownership records).
20 “(cc) ORS 295.018 (bank depository collateralization records).
21 “(dd) ORS 319.190 (vehicle fuel dealer reports).
22 “(ee) ORS 321.682 (forest products harvest tax and forestland appraisal records).
23 “(ff) ORS 367.804 (Oregon Innovative Partnerships Program records).
24 “(gg) ORS 459A.050 (county annual recycling reports).
25 “(hh) ORS 465.015 and 465.250 (hazardous waste records).
26 “(ii) ORS 466.060 (waste treatment and disposal records).
27 “(jj) ORS 468.095 (pollution related records).
28 “(kk) ORS 469.560 (energy facility regulation records).
29 “(LL) ORS 537.762 (well construction records).
30 “(mm) ORS 571.057 (nursery license application records).
31 “(nn) ORS 583.086 (milk handler audit records).
32 “(oo) ORS 633.077 (commercial feed test records).
33 “(pp) ORS 656.248 (medical service fee schedule records).
34 “(qq) ORS 756.075 (public utility or telecommunications utility records).
35 “(rr) ORS 633.364 (fertilizer registration records).
36 “SECTION 15. Exemptions from disclosure of public records relating to crime victims.
37 Public records relating to crime victims and made confidential by a statute listed in this
38 section are exempt from disclosure under ORS 192.410 to 192.505, except to the extent a
39 statute listed in this section authorizes disclosure of the public record:
40 “(1) ORS 147.115 (crime victim compensation records).
41 “(2) ORS 192.844 (address confidentiality program records).
42 “(3) ORS 18.048 (criminal restitution recipient records).
43 “SECTION 16. Exemptions from disclosure of public records relating to whistleblower
44 information. Public records relating to whistleblower information and made confidential by
45 a statute listed in this section are exempt from disclosure under ORS 192.410 to 192.505, ex-

cept to the extent a statute listed in this section authorizes disclosure of the public record:

“(1) ORS 40.275 (identity of criminal investigation informants).

“(2) ORS 124.075, 124.085 and 124.090 (identity of persons reporting elder abuse and elder abuse records).

“(3) ORS 177.170 and 177.180 (government waste, inefficiency or abuse records).

“(4) ORS 430.763 (records of abuse of developmentally disabled individuals or individuals with mental illness).

“(5) ORS 441.057 (records of standards of care of health care facilities).

“(6) ORS 654.062 (records of employees making complaints of safety or health laws, regulations or standards).

“(7) ORS 659A.218 (records of public employee disclosures of unlawful activities).

“SECTION 17. Exemptions from disclosure of public records relating to security and emergency planning. (1) The following public records relating to security and emergency planning are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance:

“(a) Computer programs developed or purchased by or for any public body for its own use. As used in this paragraph, ‘computer program’ means a series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. ‘Computer program’ does not include:

“(A) The original data, including but not limited to numbers, text, voice, graphics and images;

“(B) Analyses, compilations and other manipulated forms of the original data produced by use of the program; or

“(C) The mathematical and statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

“(b) Specific operational plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment, prepared or used by a public body, if public disclosure of the plans would endanger an individual’s life or physical safety or jeopardize a law enforcement activity.

“(c) Records or information that, if disclosed, would allow a person to:

“(A) Gain unauthorized access to buildings or other property;

“(B) Identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, services; or

“(C) Disrupt, interfere with or gain unauthorized access to public funds or to information processing, communication or telecommunication systems, including the information contained in the systems, that are used or operated by a public body.

“(d) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:

“(A) An individual;

“(B) Buildings or other property;

“(C) Information processing, communication or telecommunication systems, including the information contained in the systems; or

1 “(D) Those operations of the Oregon State Lottery, the security of which are subject to
2 study and evaluation under ORS 461.180 (6).

3 “(2) The following public records relating to security and emergency planning are exempt
4 from disclosure under ORS 192.410 to 192.505:

5 “(a) Records of the Energy Facility Siting Council concerning the review or approval of
6 security programs pursuant to ORS 469.530.

7 “(b) A county elections security plan developed and filed under ORS 254.074.

8 “(c) Information about review or approval of programs relating to the security of:

9 “(A) Generation, storage or conveyance of:

10 “(i) Electricity;

11 “(ii) Gas in liquefied or gaseous form;

12 “(iii) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

13 “(iv) Petroleum products;

14 “(v) Sewage; or

15 “(vi) Water.

16 “(B) Telecommunication systems, including cellular, wireless or radio systems.

17 “(C) Data transmissions by whatever means provided.

18 “(3) Public records relating to security and emergency planning and made confidential
19 by a statute listed in this subsection are exempt from disclosure under ORS 192.410 to
20 192.505, except to the extent a statute listed in this subsection authorizes disclosure of the
21 public record:

22 “(a) ORS 1.180 (court security and emergency preparedness plans).

23 “(b) ORS 176.765 (energy resource records).

24 “(c) ORS 461.180 (Oregon State Lottery security records).

25 “(d) ORS 824.082 (hazardous material transportation records).

26 “SECTION 18. Exemptions from disclosure of public records relating to public employee
27 privacy. (1) The following public records relating to public employee privacy are exempt from
28 disclosure under ORS 192.410 to 192.505, unless the public interest requires disclosure:

29 “(a) The names and signatures of employees who sign authorization cards or petitions for
30 the purpose of requesting representation or decertification elections.

31 “(b) Personnel discipline records where no disciplinary action is taken.

32 “(c) The name, home address, professional address or location of a person that is engaged
33 in, or that provides goods or services for, medical research at Oregon Health and Science
34 University that is conducted using animals other than rodents. This subsection does not
35 apply to Oregon Health and Science University press releases, websites or other publications
36 circulated to the general public.

37 “(d) If requested by a public safety officer, as defined in ORS 181.610:

38 “(A) The home address and home telephone number of the public safety officer contained
39 in the voter registration records for the public safety officer.

40 “(B) The home address and home telephone number of the public safety officer contained
41 in records of the Department of Public Safety Standards and Training.

42 “(C) The name of the public safety officer contained in county real property assessment
43 or taxation records. This exemption:

44 “(i) Applies only to the name of the public safety officer and any other owner of the
45 property in connection with a specific property identified by the officer in a request for ex-

1 exemption from disclosure;

2 “(ii) Applies only to records that may be made immediately available to the public upon
3 request in person, by telephone or using the Internet;

4 “(iii) Applies until the public safety officer requests termination of the exemption;

5 “(iv) Does not apply to disclosure of records among public bodies as defined in ORS
6 174.109 for governmental purposes; and

7 “(v) May not result in liability for the county if the name of the public safety officer is
8 disclosed after a request for exemption from disclosure is made under this subsection.

9 “(e) Unless the public records request is made by a financial institution, as defined in
10 ORS 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker
11 or mortgage broker licensed under ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS
12 chapter 59 or title company for business purposes, records described in subparagraph (A) of
13 this paragraph, if the exemption from disclosure of the records is sought by an individual
14 described in subparagraph (B) of this paragraph using the procedure described in subpara-
15 graph (C) of this paragraph:

16 “(A) The home address, home or cellular telephone number or personal electronic mail
17 address contained in the records of any public body that has received the request that is set
18 forth in:

19 “(i) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satis-
20 faction, substitution of trustee, easement, dog license, marriage license or military discharge
21 record that is in the possession of the county clerk; or

22 “(ii) Any public record of a public body other than the county clerk.

23 “(B) The individual claiming the exemption from disclosure must be a district attorney,
24 a deputy district attorney, the Attorney General or an assistant attorney general, the United
25 States Attorney for the District of Oregon, an assistant United States attorney for the Dis-
26 trict of Oregon, a city attorney who engages in the prosecution of criminal matters or a
27 deputy city attorney who engages in the prosecution of criminal matters.

28 “(C) The individual claiming the exemption from disclosure must do so by filing the claim
29 in writing with the public body for which the exemption from disclosure is being claimed on
30 a form prescribed by the public body. Unless the claim is filed with the county clerk, the
31 claim form shall list the public records in the possession of the public body to which the
32 exemption applies. The exemption applies until the individual claiming the exemption re-
33 quests termination of the exemption or ceases to qualify for the exemption.

34 “(f) Records of the Department of Public Safety Standards and Training relating to in-
35 vestigations conducted under ORS 181.662 or 181.878 (6), until the department issues the re-
36 port described in ORS 181.662 or 181.878.

37 “(2) The following public records relating to public employee privacy are exempt from
38 disclosure under ORS 192.410 to 192.505:

39 “(a) Public body employee or volunteer addresses, Social Security numbers, dates of birth
40 and telephone numbers contained in personnel records maintained by the public body that is
41 the employer or the recipient of volunteer services. This exemption:

42 “(A) Does not apply to the addresses, dates of birth and telephone numbers of employees
43 or volunteers who are elected officials, except that a judge or district attorney subject to
44 election may seek to exempt the judge’s or district attorney’s address or telephone number,
45 or both, under the terms of ORS 192.445;

1 “(B) Does not apply to employees or volunteers to the extent that the party seeking
2 disclosure shows by clear and convincing evidence that the public interest requires disclosure
3 in a particular instance;

4 “(C) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by
5 a professional education association of which the substitute teacher may be a member; and

6 “(D) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

7 “(b) Employee and retiree address, telephone number and other nonfinancial membership
8 records and employee financial records maintained by the Public Employees Retirement
9 System pursuant to ORS chapters 238 and 238A.

10 “(3) Public records relating to public employee privacy and made confidential by a statute
11 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505, except to
12 the extent a statute listed in this subsection authorizes disclosure of the public record:

13 “(a) ORS 181.675 (public safety officer photographs and personal information records).

14 “(b) ORS 181.854 (public safety employee photographs and personal information on re-
15 cords).

16 “(c) ORS 181.860 (peer support counseling records).

17 “(d) ORS 192.447 (public employee identification badge records).

18 “(e) ORS 342.850 (teacher evaluation and personnel file records).

19 “(f) ORS 339.388 (child abuse or sexual conduct records).

20 “SECTION 19. Exemptions from disclosure of public records relating to government op-
21 erations. (1) The following public records relating to government operations are exempt from
22 disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the
23 particular instance:

24 “(a) Records of a public body pertaining to litigation to which the public body is a party
25 if the complaint has been filed, or if the complaint has not been filed, if the public body shows
26 that such litigation is reasonably likely to occur. This exemption does not apply to litigation
27 that has been concluded, and nothing in this subsection shall limit any right or opportunity
28 granted by discovery or deposition statutes to a party to litigation or potential litigation.

29 “(b) Test questions, scoring keys and other data used to administer a licensing exam-
30 ination, employment, academic or other examination or testing procedure before the exam-
31 ination is given and if the examination is to be used again. Records establishing procedures
32 for and instructing persons administering, grading or evaluating an examination or testing
33 procedure are included in this exemption, to the extent that disclosure would create a risk
34 that the result might be affected.

35 “(c) Information relating to the appraisal of real estate prior to its acquisition.

36 “(d) Information concerning the location of archaeological sites or objects as those terms
37 are defined in ORS 358.905, except if the governing body of an Indian tribe requests the in-
38 formation and the need for the information is related to that Indian tribe’s cultural or reli-
39 gious activities. This exemption does not include information relating to a site that is all or
40 part of an existing, commonly known and publicized tourist facility or attraction.

41 “(e) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192
42 and 564.100, regarding the habitat, location or population of any threatened species or en-
43 dangered species.

44 “(f) Writings prepared by or under the direction of faculty of public educational insti-
45 tutions, in connection with research, until publicly released, copyrighted or patented.

1 “(g) Data and information provided by participants to mediation under ORS 36.256.

2 “(h)(A) Audits or audit reports required of a telecommunications carrier. As used in this
3 subparagraph, ‘audit or audit report’ means any external or internal audit or audit report
4 pertaining to a telecommunications carrier, as defined in ORS 133.721, or pertaining to a
5 corporation having an affiliated interest, as defined in ORS 759.390, with a telecommuni-
6 cations carrier that is intended to make the operations of the entity more efficient, accurate
7 or compliant with applicable rules, procedures or standards, that may include self-criticism
8 and that has been filed by the telecommunications carrier or affiliate under compulsion of
9 state law. ‘Audit or audit report’ does not mean an audit of a cost study that would be
10 discoverable in a contested case proceeding and that is not subject to a protective order.

11 “(B) Financial statements. As used in this subparagraph, ‘financial statement’ means a
12 financial statement of a nonregulated corporation having an affiliated interest, as defined in
13 ORS 759.390, with a telecommunications carrier, as defined in ORS 133.721.

14 “(2) The following public records relating to government operations are exempt from
15 disclosure under ORS 192.410 to 192.505:

16 “(a) Communications within a public body or between public bodies of an advisory nature
17 to the extent that they cover other than purely factual materials and are preliminary to any
18 final agency determination of policy or action. This exemption does not apply unless the
19 public body shows that in the particular instance the public interest in encouraging frank
20 communication between officials and employees of public bodies clearly outweighs the public
21 interest in disclosure.

22 “(b) Information submitted to a public body in confidence and not otherwise required by
23 law to be submitted, where such information should reasonably be considered confidential,
24 the public body has obliged itself in good faith not to disclose the information, and when the
25 public interest would suffer by the disclosure.

26 “(c) Information or records of the Department of Corrections, including the State Board
27 of Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the
28 rehabilitation of a person in custody of the department or substantially prejudice or prevent
29 the carrying out of the functions of the department, if the public interest in confidentiality
30 clearly outweighs the public interest in disclosure.

31 “(d)(A) Public records or information, the disclosure of which is prohibited or restricted
32 or otherwise made confidential or privileged under Oregon law.

33 “(B) Subject to ORS 192.423, subparagraph (A) of this paragraph does not apply to factual
34 information compiled in a public record when:

35 “(i) The basis for the claim of exemption is ORS 40.225;

36 “(ii) The factual information is not prohibited from disclosure under any applicable state
37 or federal law, regulation or court order and is not otherwise exempt from disclosure under
38 ORS 192.410 to 192.505;

39 “(iii) The factual information was compiled by or at the direction of an attorney as part
40 of an investigation on behalf of the public body in response to information of possible
41 wrongdoing by the public body;

42 “(iv) The factual information was not compiled in preparation for litigation, arbitration
43 or an administrative proceeding that was reasonably likely to be initiated or that has been
44 initiated by or against the public body; and

45 “(v) The holder of the privilege under ORS 40.225 has made or authorized a public state-

1 ment characterizing or partially disclosing the factual information compiled by or at the
2 attorney's direction.

3 “(e) Public records or information described in sections 11 to 21 of this 2011 Act, fur-
4 nished by the public body originally compiling, preparing or receiving them to any other
5 public officer or public body in connection with performance of the duties of the recipient,
6 if the considerations originally giving rise to the confidential or exempt nature of the public
7 records or information remain applicable.

8 “(f) Records of or submitted to the State Treasurer, the Oregon Investment Council or
9 the agents of the treasurer or the council relating to active or proposed publicly traded in-
10 vestments under ORS chapter 293, including but not limited to records regarding the acqui-
11 sition, exchange or liquidation of the investments. For the purposes of this paragraph:

12 “(A) The exemption does not apply to:

13 “(i) Information in investment records solely related to the amount paid directly into an
14 investment by, or returned from the investment directly to, the treasurer or council; or

15 “(ii) The identity of the entity to which the amount was paid directly or from which the
16 amount was received directly.

17 “(B) An investment in a publicly traded investment is no longer active when acquisition,
18 exchange or liquidation of the investment has been concluded.

19 “(g)(A) Records of or submitted to the State Treasurer, the Oregon Investment Council,
20 the Oregon Growth Account Board or the agents of the treasurer, council or board relating
21 to actual or proposed investments under ORS chapter 293 or 348 in a privately placed in-
22 vestment fund or a private asset, including but not limited to records regarding the solic-
23 itation, acquisition, deployment, exchange or liquidation of the investments, including but
24 not limited to:

25 “(i) Due diligence materials that are proprietary to an investment fund, to an asset
26 ownership or to their respective investment vehicles.

27 “(ii) Financial statements of an investment fund, an asset ownership or their respective
28 investment vehicles.

29 “(iii) Meeting materials of an investment fund, an asset ownership or their respective
30 investment vehicles.

31 “(iv) Records containing information regarding the portfolio positions in which an in-
32 vestment fund, an asset ownership or their respective investment vehicles invest.

33 “(v) Capital call and distribution notices of an investment fund, an asset ownership or
34 their respective investment vehicles.

35 “(vi) Investment agreements and related documents.

36 “(B) The exemption under this paragraph does not apply to:

37 “(i) The name, address and vintage year of each privately placed investment fund.

38 “(ii) The dollar amount of the commitment made to each privately placed investment
39 fund since inception of the fund.

40 “(iii) The dollar amount of cash contributions made to each privately placed investment
41 fund since inception of the fund.

42 “(iv) The dollar amount, on a fiscal year-end basis, of cash distributions received by the
43 State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the
44 agents of the treasurer, council or board from each privately placed investment fund.

45 “(v) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a

1 privately placed investment fund attributable to an investment by the State Treasurer, the
2 Oregon Investment Council, the Oregon Growth Account Board or the agents of the treas-
3 urer, council or board.

4 “(vi) The net internal rate of return of each privately placed investment fund since in-
5 ception of the fund.

6 “(vii) The investment multiple of each privately placed investment fund since inception
7 of the fund.

8 “(viii) The dollar amount of the total management fees and costs paid on an annual fiscal
9 year-end basis to each privately placed investment fund.

10 “(ix) The dollar amount of cash profit received from each privately placed investment
11 fund on a fiscal year-end basis.

12 “(h) The monthly reports prepared and submitted under ORS 293.761 and 293.766 con-
13 cerning the Public Employees Retirement Fund and the Industrial Accident Fund may be
14 uniformly treated as exempt from disclosure for a period of up to 90 days after the end of
15 the calendar quarter.

16 “(i) Reports of unclaimed property filed by the holders of such property to the extent
17 permitted by ORS 98.352.

18 “(j) Sensitive business records or financial or commercial information of the Oregon
19 Health and Science University that is not customarily provided to business competitors.

20 “(k) Records of Oregon Health and Science University regarding candidates for the posi-
21 tion of president of the university.

22 “(L) Sensitive business records, capital development plans or financial or commercial
23 information of Oregon Corrections Enterprises that is not customarily provided to business
24 competitors.

25 “(m) Documents, materials or other information submitted to the Director of the De-
26 partment of Consumer and Business Services in confidence by a state, federal, foreign or
27 international regulatory or law enforcement agency or by the National Association of In-
28 surance Commissioners, its affiliates or subsidiaries under ORS 86A.095 to 86A.198, 86A.990,
29 86A.992, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905,
30 ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code when:

31 “(A) The document, material or other information is received upon notice or with an
32 understanding that it is confidential or privileged under the laws of the jurisdiction that is
33 the source of the document, material or other information; and

34 “(B) The director has obligated the Department of Consumer and Business Services not
35 to disclose the document, material or other information.

36 “(3) Public records relating to government operations and made confidential by a statute
37 listed in this subsection are exempt from disclosure under ORS 192.410 to 192.505, except to
38 the extent a statute listed in this subsection authorizes disclosure of the public record:

39 “(a) ORS 36.220 and 36.230 (mediation records).

40 “(b) ORS 40.225 to 40.295 (privileged communications).

41 “(c) ORS 56.100 (electronic data processing programs and electronic media used for
42 business registry functions).

43 “(d) ORS 173.230 (Legislative Counsel matters and related records).

44 “(e) ORS 173.455 and 173.855 (draft measures in possession of the Legislative Fiscal Offi-
45 cer or Legislative Revenue Officer).

1 “(f) ORS 176.309 (disability evaluation panel records).

2 “(g) ORS 192.650 and 192.660 (executive session minutes and related records).

3 “(h) ORS 251.145 and 251.430 (voters’ pamphlet records).

4 “(i) ORS 291.223 (budget estimate records).

5 “(j) ORS 421.213 (inmate transfer records).

6 “(k) ORS 426.160 (commitment hearing records).

7 “(L) ORS 657.665 (unemployment insurance records).

8 “(m) ORS 657.732 (Interagency Shared Information System records).

9 “(n) ORS 681.440 (State Board of Examiners for Speech-Language Pathology and
10 Audiology records).

11 “(o) ORS 732.230, 734.650, 734.830 and 735.430 (insurance records).

12 “(p) ORS 194.152 (journals of notarial acts).

13 “(q) ORS 367.804 (Oregon Innovative Partnerships Program records).

14 “(r) ORS 419A.100 and 419A.102 (local citizen review board records).

15 “(s) ORS 9.080 (attorney professional liability fund claim records).

16 “SECTION 20. Federal law prohibitions on disclosure. Any public records or information,
17 the disclosure of which is prohibited by federal law or regulations, is exempt from disclosure
18 under ORS 192.410 to 192.505.

19 “SECTION 21. Effect of parenthetical material. Text set forth within parentheses in
20 sections 11 to 21 of this 2011 Act is provided for the convenience of the reader and may not
21 operate to limit, expand or otherwise alter the application of an exemption from disclosure
22 of a public record.

23
24 “REPEALS

25
26 “SECTION 22. ORS 192.501 and 192.502 are repealed.

27 “SECTION 22a. Effect of repeal and reorganization of exemptions. Nothing in the repeal
28 of ORS 192.501 or 192.502 by section 22 of this 2011 Act or the reorganization of public records
29 exemptions as set forth in sections 11 to 21 of this 2011 Act is intended to alter existing ju-
30 dicial or administrative interpretation of the meaning and scope of existing exemptions from
31 disclosure of public records, as amended and in effect on the effective date of this 2011 Act.

32
33 “CONFORMING AMENDMENTS

34
35 “SECTION 23. ORS 25.020 is amended to read:

36 “25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed
37 under this chapter or ORS chapter 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized
38 by ORS 25.030, shall be made to the Department of Justice as the state disbursement unit:

39 “(a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or
40 419C.597;

41 “(b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a
42 person who receives or has a right to receive support payments on the person’s own behalf or on
43 behalf of another person;

44 “(c) After the assignment of support terminates for as long as amounts assigned remain owing;

45 “(d) For any period during which support enforcement services are provided under ORS 25.080;

1 “(e) When ordered by the court under ORS 419B.400;

2 “(f) When a support order that is entered or modified on or after January 1, 1994, includes a
3 provision requiring the obligor to pay support by income withholding; or

4 “(g) When ordered by the court under any other applicable provision of law.

5 “(2)(a) The Department of Justice shall disburse payments, after lawful deduction of fees and in
6 accordance with applicable statutes and rules, to those persons and entities that are lawfully enti-
7 tled to receive such payments.

8 “(b) During a period for which support is assigned under ORS 412.024, for an obligee described
9 in subsection (1)(b) of this section, the department shall disburse to the obligee, from child support
10 collected each month, \$50 for each child up to a maximum of \$200 per family.

11 “(3)(a) When the administrator is providing support enforcement services under ORS 25.080, the
12 obligee may enter into an agreement with a collection agency, as defined in ORS 697.005, for as-
13 sistance in collecting child support payments.

14 “(b) The Department of Justice:

15 “(A) Shall disburse support payments, to which the obligee is legally entitled, to the collection
16 agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection
17 to the department;

18 “(B) May reinstate disbursements to the obligee if:

19 “(i) The obligee requests that disbursements be made directly to the obligee;

20 “(ii) The collection agency violates any provision of this subsection; or

21 “(iii) The Department of Consumer and Business Services notifies the Department of Justice that
22 the collection agency is in violation of the rules adopted under ORS 697.086;

23 “(C) Shall credit the obligor’s account for the full amount of each support payment received by
24 the department and disbursed to the collection agency; and

25 “(D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall in-
26 clude a notice to the obligee printed in type size equal to at least 12-point type that the obligee may
27 be eligible for support enforcement services from the department or the district attorney without
28 paying the interest or fee that is typically charged by a collection agency.

29 “(c) The obligee shall:

30 “(A) Provide to the department, on a form approved by the department, information about the
31 agreement with the collection agency; and

32 “(B) Promptly notify the department when the agreement is terminated.

33 “(d) The collection agency:

34 “(A) May provide investigative and location services to the obligee and disclose relevant infor-
35 mation from those services to the administrator for purposes of providing support enforcement ser-
36 vices under ORS 25.080;

37 “(B) May not charge interest or a fee for its services exceeding 29 percent of each support
38 payment received unless the collection agency, if allowed by the terms of the agreement between
39 the collection agency and the obligee, hires an attorney to perform legal services on behalf of the
40 obligee;

41 “(C) May not initiate, without written authorization from the administrator, any enforcement
42 action relating to support payments on which support enforcement services are provided by the ad-
43 ministrator under ORS 25.080; and

44 “(D) Shall include in the agreement with the obligee a notice printed in type size equal to at
45 least 12-point type that provides information on the fees, penalties, termination and duration of the

1 agreement.

2 “(e) The administrator may use information disclosed by the collection agency to provide sup-
3 port enforcement services under ORS 25.080.

4 “(4) The Department of Justice may immediately transmit to the obligee payments received from
5 any obligor without waiting for payment or clearance of the check or instrument received if the
6 obligor has not previously tendered any payment by a check or instrument that was not paid or was
7 dishonored.

8 “(5) The Department of Justice shall notify each obligor and obligee by mail when support pay-
9 ments shall be made to the department and when the obligation to make payments in this manner
10 shall cease.

11 “(6)(a) The administrator shall provide information about a child support account directly to a
12 party to the support order regardless of whether the party is represented by an attorney. As used
13 in this subsection, ‘information about a child support account’ means the:

14 “(A) Date of issuance of the support order.

15 “(B) Amount of the support order.

16 “(C) Dates and amounts of payments.

17 “(D) Dates and amounts of disbursements.

18 “(E) Payee of any disbursements.

19 “(F) Amount of any arrearage.

20 “(G) Source of any collection, to the extent allowed by federal law.

21 “(b) Nothing in this subsection limits the information the administrator may provide by law to
22 a party who is not represented by an attorney.

23 “(7) Any pleading for the entry or modification of a support order must contain a statement that
24 payment of support under a new or modified order will be by income withholding unless an excep-
25 tion to payment by income withholding is granted under ORS 25.396.

26 “(8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order es-
27 tablishing paternity or including a provision concerning support must contain:

28 “(A) The residence, mailing or contact address, Social Security number, telephone number and
29 driver license number of each party;

30 “(B) The name, address and telephone number of all employers of each party;

31 “(C) The names and dates of birth of the joint children of the parties; and

32 “(D) Any other information required by rule adopted by the Chief Justice of the Supreme Court
33 under ORS 1.002.

34 “(b) The judgment or order shall also include notice that the obligor and obligee:

35 “(A) Must inform the court and the administrator in writing of any change in the information
36 required by this subsection within 10 days after the change; and

37 “(B) May request that the administrator review the amount of support ordered after three years,
38 or such shorter cycle as determined by rule of the Department of Justice, or at any time upon a
39 substantial change of circumstances.

40 “(c) The administrator may require of the parties any additional information that is necessary
41 for the provision of support enforcement services under ORS 25.080.

42 “(d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party
43 or child would unreasonably be put at risk by the disclosure of information specified in this sub-
44 section or by the disclosure of other information concerning a child or party to a paternity or sup-
45 port proceeding or if an existing order so requires, a court or administrator or administrative law

1 judge, when the proceeding is administrative, shall order that the information not be contained in
2 any document provided to another party or otherwise disclosed to a party other than the state.

3 “(B) The Department of Justice shall adopt rules providing for similar confidentiality for infor-
4 mation described in subparagraph (A) of this paragraph that is maintained by an entity providing
5 support enforcement services under ORS 25.080.

6 “(e) The Chief Justice of the Supreme Court may, in consultation with the Department of Jus-
7 tice, adopt rules under ORS 1.002 to designate information specified in this subsection as confiden-
8 tial and require that the information be submitted through an alternate procedure to ensure that the
9 information is exempt from public disclosure under [ORS 192.502] **sections 11 to 21 of this 2011**
10 **Act.**

11 “(9)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subsequent child
12 support enforcement action, the court or administrator, upon a showing of diligent effort made to
13 locate the obligor or obligee, may deem due process requirements to be met by mailing notice to the
14 last-known residential, mailing or employer address or contact address as provided in ORS 25.085.

15 “(b) Service of an order directing an obligor to appear in a contempt proceeding is subject to
16 ORS 33.015 to 33.155.

17 “(10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the
18 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,
19 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the
20 county clerk or the Department of Human Services.

21 “(11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be
22 given for payments not made to the Department of Justice as required under subsection (1) of this
23 section.

24 “(12) The Department of Justice shall give credit for payments not made to the department:

25 “(a) When payments are not assigned to this or another state and the obligee and obligor agree
26 in writing that specific payments were made and should be credited;

27 “(b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn
28 written statements that specific payments were made, canceled checks or other substantial evidence
29 is presented to corroborate their statements and the obligee has been given prior written notice of
30 any potential criminal or civil liability that may attach to an admission of the receipt of assigned
31 support;

32 “(c) When payments are assigned to another state and that state verifies that payments not paid
33 to the department were received by the other state; or

34 “(d) As provided by rule adopted under ORS 180.345.

35 “(13) An obligor may apply to the Department of Justice for credit for payments made other
36 than to the Department of Justice. If the obligee or other state does not provide the agreement,
37 sworn statement or verification required by subsection (12) of this section, credit may be given
38 pursuant to order of an administrative law judge assigned from the Office of Administrative
39 Hearings after notice and opportunity to object and be heard are given to both obligor and obligee.
40 Notice shall be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be
41 by regular mail at the address provided in the application for credit. A hearing conducted under this
42 subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a
43 hearing de novo in the circuit court.

44 “(14) Nothing in this section precludes the Department of Justice from giving credit for pay-
45 ments not made to the department when there has been a judicially determined credit or satisfaction

1 or when there has been a satisfaction of support executed by the person to whom support is owed.

2 “(15) The Department of Justice shall adopt rules that:

3 “(a) Direct how support payments that are made through the department are to be applied and
4 disbursed; and

5 “(b) Are consistent with federal regulations.

6 “**SECTION 24.** ORS 40.270 is amended to read:

7 “40.270. A public officer shall not be examined as to public records determined to be exempt
8 from disclosure under [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011 Act.**

9 “**SECTION 25.** ORS 65.805 is amended to read:

10 “65.805. (1) The notice to the Attorney General required by ORS 65.803 must be accompanied
11 by any application fee imposed under ORS 65.813 (3) and must contain a detailed statement de-
12 scribing the proposed transaction along with any other information the Attorney General requires
13 by rule.

14 “(2)(a) Upon a showing satisfactory to the Attorney General by a party to the proposed trans-
15 action, any material required to be submitted to the Attorney General under subsection (1) of this
16 section is a trade secret under [ORS 192.501] **section 14 (1)(a) of this 2011 Act.** The Attorney
17 General shall classify the material as confidential and the material shall not be disclosed except as
18 provided in paragraph (b) of this subsection unless the Attorney General determines that the mate-
19 rial is necessary to the determination of an issue being considered at a public hearing as provided
20 in ORS 65.807.

21 “(b) To the extent that the material, or any portion thereof, would otherwise qualify as a trade
22 secret under [ORS 192.501] **section 14 (1)(a) of this 2011 Act,** no action taken by the Attorney
23 General, any authorized employee of the Department of Justice or any expert or consultant em-
24 ployed pursuant to ORS 65.813 in inspecting or reviewing such information shall affect its status as
25 a trade secret.

26 “**SECTION 26.** ORS 94.974 is amended to read:

27 “94.974. (1) Except in a transaction exempt under ORS 94.962, any person who sells a member-
28 ship camping contract shall provide the prospective purchaser with those written disclosures re-
29 quired under ORS 94.959. Disclosures shall be substantially accurate and complete and made to a
30 prospective purchaser before the prospective purchaser signs a membership camping contract or
31 gives any consideration for the purchase of such contract. The person shall take a receipt from the
32 prospective purchaser upon delivery of the disclosures. Each receipt shall be kept on file by the
33 membership camping operator within this state subject to inspection by the Real Estate Commis-
34 sioner or the commissioner’s authorized representative for a period of three years from the date the
35 receipt is taken.

36 “(2) Records of the sale of membership camping contracts shall be subject to inspection by the
37 commissioner or the commissioner’s authorized representative. Any list identifying campground
38 members obtained by the commissioner or the commissioner’s authorized representative shall be
39 exempt from disclosure, as trade secrets, to any person, public body or state agency, under [ORS
40 192.501] **section 14 (1)(a) of this 2011 Act.**

41 “**SECTION 27.** ORS 144.130 is amended to read:

42 “144.130. (1) Notwithstanding the provisions of ORS 179.495, prior to a parole hearing or other
43 personal interview, each prisoner shall have access to the written materials which the board shall
44 consider with respect to the release of the prisoner on parole, with the exception of materials ex-
45 empt from disclosure under [ORS 192.502 (5)] **section 19 (2)(c) of this 2011 Act.**

1 “(2) The board and the Director of the Department of Corrections shall jointly adopt procedures
2 for a prisoner’s access to written materials pursuant to this section.

3 “**SECTION 28.** ORS 146.035 is amended to read:

4 “146.035. (1) There shall be established within the Department of State Police the State Medical
5 Examiner’s office for the purpose of directing and supporting the state death investigation program.

6 “(2) The State Medical Examiner shall manage all aspects of the State Medical Examiner’s
7 program.

8 “(3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or
9 discharge other personnel of the State Medical Examiner’s office.

10 “(4) The State Medical Examiner’s office shall:

11 “(a) File and maintain appropriate reports on all deaths requiring investigation.

12 “(b) Maintain an accurate list of all active district medical examiners, assistant district medical
13 examiners and designated pathologists.

14 “(c) Transmit monthly to the Department of Transportation a report for the preceding calendar
15 month of all information obtained under ORS 146.113.

16 “(5) Notwithstanding [ORS 192.501 (36)] **section 13 (5)(e) of this 2011 Act:**

17 “(a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person
18 who may be criminally or civilly liable for the death, or their authorized representatives respec-
19 tively, may examine and obtain copies of any medical examiner’s report, autopsy report or labora-
20 tory test report ordered by a medical examiner under ORS 146.117.

21 “(b) The system described in ORS 192.517 (1) shall have access to reports described in this
22 subsection as provided in ORS 192.517.

23 “**SECTION 29.** ORS 147.421 is amended to read:

24 “147.421. (1) If a public body is the custodian of any of the following information, upon the re-
25 quest of the victim, the public body shall provide to the victim any of the following information of
26 which it is the custodian and that is about the defendant or convicted criminal:

27 “(a) The conviction and sentence;

28 “(b) Criminal history;

29 “(c) Imprisonment; and

30 “(d) Future release from physical custody.

31 “(2) A public body, in its discretion, may provide the requested information by furnishing the
32 victim with copies of public records. The public body may charge the victim [*its actual cost*] **a fee**
33 for making public records available as provided in ORS 192.440 [(4)].

34 “(3) As used in this section:

35 “(a) ‘Criminal history’ means a description of the prior arrests, convictions and sentences of the
36 person.

37 “(b) ‘Future release’ means the projected or scheduled date of release of the person from con-
38 finement, the name and location of the correctional facility from which the person is to be released
39 and the community where the person is scheduled to reside upon release.

40 “(c) ‘Imprisonment’ means the name and location of the correctional facility in which the person
41 is confined.

42 “(d) ‘Public body’ has the meaning given that term in ORS 192.410.

43 “**SECTION 30.** ORS 161.336 is amended to read:

44 “161.336. (1) If the Psychiatric Security Review Board determines that the person presents a
45 substantial danger to others but can be adequately controlled with supervision and treatment if

1 conditionally released and that necessary supervision and treatment are available, the board may
2 order the person conditionally released, subject to those supervisory orders of the board as are in
3 the best interests of justice, the protection of society and the welfare of the person. The board may
4 designate any person or state, county or local agency the board considers capable of supervising the
5 person upon release, subject to those conditions as the board directs in the order for conditional
6 release. Prior to the designation, the board shall notify the person or agency to whom conditional
7 release is contemplated and provide the person or agency an opportunity to be heard before the
8 board. After receiving an order entered under this section, the person or agency designated shall
9 assume supervision of the person pursuant to the direction of the board.

10 “(2) Conditions of release contained in orders entered under this section may be modified from
11 time to time and conditional releases may be terminated by order of the board as provided in ORS
12 161.351.

13 “(3) For purposes of this section, a person affected by a mental disease or defect in a state of
14 remission is considered to have a mental disease or defect requiring supervision when the disease
15 may, with reasonable medical probability, occasionally become active and, when active, render the
16 person a danger to others. The person may be continued on conditional release by the board as
17 provided in this section.

18 “(4)(a) As a condition of release, the board may require the person to report to any state or
19 local mental health facility for evaluation. Whenever medical, psychiatric or psychological treatment
20 is recommended, the board may order the person, as a condition of release, to cooperate with and
21 accept the treatment from the facility.

22 “(b) The facility to which the person has been referred for evaluation shall perform the evalu-
23 ation and submit a written report of its findings to the board. If the facility finds that treatment of
24 the person is appropriate, it shall include its recommendations for treatment in the report to the
25 board.

26 “(c) Whenever treatment is provided by the facility, it shall furnish reports to the board on a
27 regular basis concerning the progress of the person.

28 “(d) Copies of all reports submitted to the board pursuant to this section shall be furnished to
29 the person and the person’s counsel. The confidentiality of these reports is determined pursuant to
30 [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011 Act.**

31 “(e) The facility shall comply with any other conditions of release prescribed by order of the
32 board.

33 “(5) If at any time while the person is under the jurisdiction of the board it appears to the board
34 or its chairperson that the person has violated the terms of the conditional release or that the
35 mental health of the individual has changed, the board or its chairperson may order the person re-
36 turned for evaluation or treatment to a state hospital designated by the Oregon Health Authority
37 if the person is at least 18 years of age, or to a secure intensive community inpatient facility des-
38 ignated by the authority if the person is under 18 years of age. A written order of the board, or its
39 chairperson on behalf of the board, is sufficient warrant for any law enforcement officer to take into
40 custody such person and transport the person accordingly. A sheriff, municipal police officer,
41 constable, parole and probation officer, prison official or other peace officer shall execute the order,
42 and the person shall be returned as soon as practicable to the custody of the authority. Within 20
43 days following the return of the person to the custody of the authority, the board shall conduct a
44 hearing. Notice of the time and place of the hearing shall be given to the person, the attorney
45 representing the person and the Attorney General. The board may continue the person on condi-

1 tional release or, if it finds by a preponderance of the evidence that the person is affected by mental
2 disease or defect and presents a substantial danger to others and cannot be adequately controlled
3 if conditional release is continued, it may order the person committed to a state hospital designated
4 by the authority if the person is at least 18 years of age, or to a secure intensive community inpa-
5 tient facility designated by the authority if the person is under 18 years of age. The state must prove
6 by a preponderance of the evidence the person's unfitness for conditional release. A person in cus-
7 tody pursuant to this subsection has the same rights as any person appearing before the board
8 pursuant to ORS 161.346.

9 “(6) The community mental health program director, the director of the facility providing
10 treatment to a person on conditional release, any peace officer or any person responsible for the
11 supervision of a person on conditional release may take a person on conditional release into custody
12 or request that the person be taken into custody if there is reasonable cause to believe the person
13 is a substantial danger to others because of mental disease or defect and that the person is in need
14 of immediate care, custody or treatment. Any person taken into custody pursuant to this subsection
15 shall be transported as soon as practicable to a state hospital designated by the authority if the
16 person is at least 18 years of age, or to a secure intensive community inpatient facility designated
17 by the authority if the person is under 18 years of age. A person taken into custody under this
18 subsection has the same rights as any person appearing before the board pursuant to ORS 161.346.

19 “(7)(a) Any person conditionally released under this section may apply to the board for dis-
20 charge from or modification of an order of conditional release on the ground that the person is no
21 longer affected by mental disease or defect or, if still so affected, no longer presents a substantial
22 danger to others and no longer requires supervision, medication, care or treatment. Notice of the
23 hearing on an application for discharge or modification of an order of conditional release shall be
24 made to the Attorney General. The applicant, at the hearing pursuant to this subsection, must prove
25 by a preponderance of the evidence the applicant's fitness for discharge or modification of the order
26 of conditional release. Applications by the person for discharge or modification of conditional re-
27 lease shall not be filed more often than once every six months.

28 “(b) Upon application by any person or agency responsible for supervision or treatment pursuant
29 to an order of conditional release, the board shall conduct a hearing to determine if the conditions
30 of release shall be continued, modified or terminated. The application shall be accompanied by a
31 report setting forth the facts supporting the application.

32 “(8) The total period of commitment and conditional release ordered pursuant to this section
33 may not exceed the maximum sentence provided by statute for the crime for which the person was
34 found guilty except for insanity.

35 “(9) The board shall maintain and keep current the medical, social and criminal history of all
36 persons committed to its jurisdiction. The confidentiality of records maintained by the board shall
37 be determined pursuant to [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011 Act.**

38 “(10) In determining whether a person should be committed to a state hospital or to a secure
39 intensive community inpatient facility, conditionally released or discharged, the board shall have as
40 its primary concern the protection of society.

41 “**SECTION 31.** ORS 181.548 is amended to read:

42 “181.548. (1) Notwithstanding the provisions of ORS 192.410 to 192.505 relating to public records
43 the fingerprints, photographs, records and reports compiled under ORS 137.225, 181.010, 181.511,
44 181.521, 181.555, 805.060 and this section are confidential and exempt from public inspection except:

45 “(a) As ordered by a court;

1 “(b) As provided in rules adopted by the Department of State Police under ORS chapter 183 to
2 govern access to and use of computerized criminal offender information including access by an in-
3 dividual for review or challenge of the individual’s own records;

4 “(c) As provided in ORS 181.555 and 181.560;

5 “(d) As provided in ORS 181.525; or

6 “(e) As provided in ORS 418.747 (5).

7 “(2) The records of the department of crime reports to the department and of arrests made by
8 the department, however, shall not be confidential and shall be available in the same manner as the
9 records of arrest and reports of crimes of other law enforcement agencies under [*ORS 192.501 (3)*]
10 **section 11 (1) of this 2011 Act.**

11 “**SECTION 32.** ORS 181.854 is amended to read:

12 “181.854. (1) As used in this section:

13 “(a) ‘Public body’ has the meaning given that term in ORS 192.410.

14 “(b) ‘Public safety employee’ means a certified reserve officer, corrections officer, parole and
15 probation officer, police officer or youth correction officer as those terms are defined in ORS
16 181.610.

17 “(2) A public body may not disclose a photograph of a public safety employee of the public body
18 without the written consent of the employee. This subsection does not apply to the use by the public
19 body of a photograph of a public safety employee.

20 “(3) A public body may not disclose information about a personnel investigation of a public
21 safety employee of the public body if the investigation does not result in discipline of the employee.

22 “(4) Subsection (3) of this section does not apply:

23 “(a) When the public interest requires disclosure of the information.

24 “(b) When the employee consents to disclosure in writing.

25 “(c) When disclosure is necessary for an investigation by the public body, the Department of
26 Public Safety Standards and Training or a citizen review body designated by the public body.

27 “(d) When the public body determines that nondisclosure of the information would adversely
28 affect the confidence of the public in the public body.

29 “(5) If an investigation of a public safety employee of a public body results from a complaint,
30 the public body may disclose to the complainant the disposition of the complaint and, to the extent
31 the public body considers necessary to explain the action of the public body on the complaint, a
32 written summary of information obtained in the investigation.

33 “(6) A public body must notify a public safety employee of the public body if the public body
34 receives a request for:

35 “(a) A photograph of the employee.

36 “(b) Information about the employee that is exempt from disclosure under [*ORS 192.501 or*
37 *192.502 (2) or (3)*] **sections 11 to 21 of this 2011 Act.**

38 “(c) Information about the employee that is prohibited from disclosure by subsection (3) of this
39 section.

40 “**SECTION 33.** ORS 190.050 is amended to read:

41 “190.050. (1) An intergovernmental group may impose and collect reasonable fees based on
42 market prices or competitive bids for geographic data that have commercial value and are an entire
43 formula, pattern, compilation, program, device, method, technique, process, database or system de-
44 veloped with a significant expenditure of public funds. An intergovernmental group may enter into
45 agreements with private persons or entities to assist with marketing such products. Notwithstanding

1 any other provision of law, intergovernmental group software product programming source codes,
2 object codes and geographic databases or systems are confidential and exempt from public disclosure
3 under [ORS 192.502] **sections 11 to 21 of this 2011 Act**. Nothing in this section authorizes an
4 intergovernmental group to restrict access to public records through inclusion of such records in a
5 geographic database or system.

6 “(2) Fees collected under subsection (1) of this section shall be used:

7 “(a) For maintenance of the formula, pattern, compilation, program, device, method, technique,
8 process, database or system; and

9 “(b) To provide services through the formula, pattern, compilation, program, device, method,
10 technique, process, database or system to public bodies paying a service charge to the intergovern-
11 mental group.

12 “(3) As used in this section, ‘intergovernmental group’ means two or more units of local gov-
13 ernment that have entered into a written agreement under ORS 190.010.

14 “**SECTION 34.** ORS 192.420 is amended to read:

15 “192.420. (1) Every person has a right to inspect any public record of a public body in this state,
16 except as otherwise expressly provided by [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011**
17 **Act**.

18 “(2)(a) If a person who is a party to a civil judicial proceeding to which a public body is a party,
19 or who has filed a notice under ORS 30.275 (5)(a), asks to inspect or to receive a copy of a public
20 record that the person knows relates to the proceeding or notice, the person must submit the re-
21 quest in writing to the custodian and, at the same time, to the attorney for the public body.

22 “(b) For purposes of this subsection:

23 “(A) The attorney for a state agency is the Attorney General in Salem.

24 “(B) ‘Person’ includes a representative or agent of the person.

25 “**SECTION 35.** ORS 192.423 is amended to read:

26 “192.423. (1) When a public record is subject to disclosure under [ORS 192.502 (9)(b)] **section**
27 **19 (2)(d)(B) of this 2011 Act**, in lieu of making the public record available for inspection by pro-
28 viding a copy of the record, the public body may prepare and release a condensation from the record
29 of the significant facts that are not otherwise exempt from disclosure under ORS 192.410 to 192.505.
30 The release of the condensation does not waive any privilege under ORS 40.225 to 40.295.

31 “(2) The person seeking to inspect or receive a copy of any public record for which a
32 condensation of facts has been provided under this section may petition for review of the denial to
33 inspect or receive a copy of the records under ORS 192.410 to 192.505. In such a review, the At-
34 torney General, district attorney or court shall, in addition to reviewing the records to which access
35 was denied, compare those records to the condensation to determine whether the condensation ad-
36 equately describes the significant facts contained in the records.

37 “**SECTION 36.** ORS 192.493 is amended to read:

38 “192.493. A record of an agency of the executive department as defined in ORS 174.112 that
39 contains the following information is a public record subject to inspection under ORS 192.420 and
40 is not exempt from disclosure under [ORS 192.501 or 192.502] **sections 11 to 21 of this 2011 Act**
41 except to the extent that the record discloses information about an individual’s health or is propri-
42 etary to a person:

43 “(1) The amounts determined by an independent actuary retained by the agency to cover the
44 costs of providing each of the following health services under ORS 414.705 to 414.750 for the six
45 months preceding the report:

1 “(a) Inpatient hospital services;
2 “(b) Outpatient hospital services;
3 “(c) Laboratory and X-ray services;
4 “(d) Physician and other licensed practitioner services;
5 “(e) Prescription drugs;
6 “(f) Dental services;
7 “(g) Vision services;
8 “(h) Mental health services;
9 “(i) Chemical dependency services;
10 “(j) Durable medical equipment and supplies; and
11 “(k) Other health services provided under a prepaid managed care health services contract un-
12 der ORS 414.725;
13 “(2) The amounts the agency and each contractor have paid under each prepaid managed care
14 health services contract under ORS 414.725 for administrative costs and the provision of each of the
15 health services described in subsection (1) of this section for the six months preceding the report;
16 “(3) Any adjustments made to the amounts reported under this section to account for geographic
17 or other differences in providing the health services; and
18 “(4) The numbers of individuals served under each prepaid managed care health services con-
19 tract, listed by category of individual.
20 “**SECTION 37.** ORS 192.495 is amended to read:
21 “192.495. Notwithstanding [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011 Act** and ex-
22 cept as otherwise provided in ORS 192.496, public records that are more than 25 years old shall be
23 available for inspection.
24 “**SECTION 38.** ORS 192.505 is amended to read:
25 “192.505. If any public record contains material which is not exempt under [ORS 192.501 and
26 192.502] **sections 11 to 21 of this 2011 Act**, as well as material which is exempt from disclosure,
27 the public body shall separate the exempt and nonexempt material and make the nonexempt material
28 available for examination.
29 “**SECTION 39.** ORS 268.357 is amended to read:
30 “268.357. Subject to the provisions of a district charter, a district may impose and collect rea-
31 sonable fees based on market prices or competitive bids for geographic data that have commercial
32 value and are an entire formula, pattern, compilation, program, device, method, technique, process,
33 database or system developed with a significant expenditure of public funds. A district may enter
34 into agreements with private persons or entities to assist with marketing such products.
35 Notwithstanding any other provision of law, district software product programming source codes,
36 object codes and geographic databases or systems are confidential and exempt from public disclosure
37 under [ORS 192.502] **sections 11 to 21 of this 2011 Act**. Nothing in this section authorizes a district
38 to restrict access to public records through inclusion of such records in a geographic database or
39 system.
40 “**SECTION 40.** ORS 279B.055 is amended to read:
41 “279B.055. (1) A contracting agency may solicit and award a public contract for goods or ser-
42 vices, or may award multiple public contracts for goods or services when specified in the invitation
43 to bid, by competitive sealed bidding.
44 “(2) The contracting agency shall issue an invitation to bid, which must:
45 “(a) Specify a time and date by which the bids must be received and a place at which the bids

1 must be submitted. The contracting agency, in the contracting agency's sole discretion, may receive
2 bids by electronic means or direct or permit a bidder to submit bids by electronic means.

3 "(b) Specify the name and title of the person designated to receive bids and the person the
4 contracting agency designates as the contact person for the procurement, if different.

5 "(c) Describe the procurement. In the description, the contracting agency shall identify the
6 scope of work included within the procurement, outline the contractor's anticipated duties and set
7 expectations for the contractor's performance. Unless the contracting agency for good cause spec-
8 ifies otherwise, the scope of work shall require the contractor to meet the highest standards pre-
9 valent in the industry or business most closely involved in providing the appropriate goods or
10 services.

11 "(d) Specify a time, date and place for prequalification applications, if any, to be filed and the
12 classes of work, if any, for which bidders must be prequalified in accordance with ORS 279B.120.

13 "(e) State that the contracting agency may cancel the procurement or reject any or all bids in
14 accordance with ORS 279B.100.

15 "(f) State that 'Contractors shall use recyclable products to the maximum extent economically
16 feasible in the performance of the contract work set forth in this document.' if a state contracting
17 agency issues the invitation to bid.

18 "(g) Require the contractor or subcontractor to possess an asbestos abatement license, if re-
19 quired under ORS 468A.710.

20 "(h) Include all contractual terms and conditions applicable to the procurement. The contract
21 terms and conditions shall specify clear consequences for a contractor's failure to perform the scope
22 of work identified in the invitation to bid or the contractor's failure to meet established performance
23 standards. The consequences may include, but are not limited to:

24 "(A) Reducing or withholding payment;

25 "(B) Requiring the contractor to perform, at the contractor's expense, additional work necessary
26 to perform the identified scope of work or meet the established performance standards; or

27 "(C) Declaring a default, terminating the public contract and seeking damages and other relief
28 available under the terms of the public contract or other applicable law.

29 "(3)(a) The contracting agency may require bid security if the contracting agency determines
30 that bid security is reasonably necessary or prudent to protect the interests of the contracting
31 agency.

32 "(b) The contracting agency shall return the bid security to all bidders upon the execution of
33 the contract.

34 "(c) The contracting agency shall retain the bid security if a bidder who is awarded a contract
35 fails to promptly and properly execute the contract. For purposes of this paragraph, prompt and
36 proper execution of the contract includes all action by a bidder that is necessary to form a contract
37 in accordance with the invitation to bid, including posting performance security and submitting
38 proof of insurance when the invitation to bid requires the submission.

39 "(4)(a) The contracting agency shall give public notice of an invitation to bid issued under this
40 section. Public notice is intended to foster competition among prospective bidders. The contracting
41 agency shall make invitations to bid available to prospective bidders.

42 "(b) A public notice must be published at least once in at least one newspaper of general cir-
43 culation in the area where the contract is to be performed and in as many additional issues and
44 publications as the contracting agency may determine.

45 "(c) The Director of the Oregon Department of Administrative Services or a local contract re-

1 view board may, by rule or order, authorize public notice of bids or proposals to be published elec-
2 tronically instead of in a newspaper of general circulation if the director or board determines that
3 electronically providing public notice of bids or proposals is likely to be cost-effective.

4 “(d) In addition to the modes of publication authorized by paragraphs (b) and (c) of this sub-
5 section, the contracting agency may use any other medium reasonably calculated to reach prospec-
6 tive bidders or proposers.

7 “(e) Rules adopted under ORS 279A.065 must prescribe the requirements for providing public
8 notice of solicitations.

9 “(f) Unless otherwise specified in rules adopted under ORS 279A.065, the contracting agency
10 shall give public notice at least seven days before the solicitation closing date.

11 “(5)(a) The contracting agency shall open bids publicly at the time, date and place designated
12 in the invitation to bid. When authorized by, and in accordance with, rules adopted under ORS
13 279A.065, bids may be submitted, received and opened through electronic means.

14 “(b) The contracting agency shall record the amount of a bid, the name of the bidder and other
15 relevant information specified by rule adopted under ORS 279A.065. The record shall be open to
16 public inspection.

17 “(c) Notwithstanding a requirement to make bids open to public inspection after the contracting
18 agency issues notice of intent to award a contract, a contracting agency may withhold from disclo-
19 sure to the public trade secrets, as defined in [ORS 192.501] **section 14 (1)(a) of this 2011 Act**, and
20 information submitted to a public body in confidence, as described in [ORS 192.502] **section 19 (2)(b)**
21 **of this 2011 Act**, that are contained in a bid.

22 “(6)(a) The contracting agency shall evaluate all bids that are received before the time and date
23 indicated for bid opening in the invitation to bid. The contracting agency shall evaluate the bids
24 based on the requirements set forth in the invitation to bid. The requirements may include, in ad-
25 dition to the information described in subsection (2) of this section, criteria to determine minimum
26 acceptability, such as inspection, testing, quality and suitability for intended use or purpose. Criteria
27 that will affect the bid price and will be considered in evaluation for award including, but not lim-
28 ited to, discounts, transportation costs and total costs of ownership or operation of a product over
29 the life of the product must be objectively measurable. The invitation to bid must set forth the
30 evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in
31 the invitation to bid or in a qualified products list maintained under ORS 279B.115. The contracting
32 agency may not consider for award bids received after the time and date indicated for bid opening
33 in the invitation to bid. The contracting agency may retain bids or copies of bids received after the
34 bid time and date indicated in the invitation to bid.

35 “(b) The contracting agency shall, for the purpose of evaluating bids, apply any applicable
36 preference described in ORS 279A.120, 279A.125 or 282.210.

37 “(7) Rules adopted under ORS 279A.065 must provide for and regulate the correction and with-
38 drawal of bids before and after bid opening and the cancellation of awards or contracts based on
39 bid mistakes. After bid opening, changes in bids prejudicial to the interests of the public or fair
40 competition are not permitted. A contracting agency that permits a bidder to correct or withdraw
41 a bid or that cancels an award or a contract based on bid mistakes, shall support the decision with
42 a written determination that states the reasons for the action taken.

43 “(8) The cancellation of invitations to bid and the rejection of bids must be in accordance with
44 ORS 279B.100.

45 “(9) The contracting agency shall, in accordance with ORS 279B.135, issue to each bidder or

1 shall post, electronically or otherwise, a notice of intent to award.

2 “(10) If a contracting agency awards a contract, the contracting agency shall award the con-
3 tract:

4 “(a) To the lowest responsible bidder whose bid substantially complies with the requirements
5 and criteria set forth in the invitation to bid and with all prescribed public procurement procedures
6 and requirements; or

7 “(b) If the invitation to bid specifies or authorizes the award of multiple contracts, to the re-
8 sponsible bidders:

9 “(A) Whose bids substantially comply with the requirements and criteria set forth in the invi-
10 tation to bid and with all prescribed public procurement procedures and requirements; and

11 “(B) Who qualify for the award of a public contract under the terms of the invitation to bid.

12 “(11) The successful bidder shall promptly execute a contract. The successful bidder’s duty to
13 promptly execute a contract includes the duty to take all action that is necessary to form a contract
14 in accordance with the invitation to bid, including posting performance security, submitting proof
15 of insurance when the invitation to bid requires the submission and agreeing to perform the scope
16 of work and meet the performance standards set forth in the invitation to bid.

17 “(12) If a contracting agency determines that preparing a procurement description to support
18 an award based on price is impractical, the contracting agency may issue a multistep invitation to
19 bid that requests bidders to submit unpriced submittals, and then later issue an invitation to bid
20 limited to the bidders that the contracting agency officer has determined are eligible to submit a
21 priced bid under the criteria set forth in the initial solicitation of unpriced submittals.

22 “(13) The contracting agency may issue a request for information, a request for interest or other
23 preliminary documents to obtain information useful in preparing an invitation to bid.

24 “**SECTION 41.** ORS 279B.060 is amended to read:

25 “279B.060. (1) A contracting agency may solicit and award a public contract for goods or ser-
26 vices, or may award multiple public contracts for goods or services when specified in the request
27 for proposals, by requesting and evaluating competitive sealed proposals.

28 “(2) The request for proposals must:

29 “(a) Specify a time and date by which sealed proposals must be received, and a place at which
30 the proposals must be submitted. The contracting agency, in the contracting agency’s sole dis-
31 cretion, may receive proposals by electronic means or may direct or permit proposers to submit
32 proposals by electronic means.

33 “(b) Specify the name and title of the person designated to receive proposals and the person the
34 contracting agency designates as the contact person for the procurement, if different.

35 “(c) Describe the procurement. In the description, the contracting agency shall identify the
36 scope of work included within the procurement, outline the contractor’s anticipated duties and set
37 expectations for the contractor’s performance. Unless the contractor is providing architectural,
38 engineering and land surveying services or related services, both as defined in ORS 279C.100, or
39 unless the contracting agency for good cause specifies otherwise, the scope of work shall require
40 the contractor to meet the highest standards prevalent in the industry or business most closely in-
41 volved in providing the appropriate goods or services.

42 “(d) Specify a time, date and place for prequalification applications, if any, to be filed and the
43 classes of work, if any, for which proposers must be prequalified in accordance with ORS 279B.120.

44 “(e) State that the contracting agency may cancel the procurement or reject any or all proposals
45 in accordance with ORS 279B.100.

1 “(f) State that ‘Contractors shall use recyclable products to the maximum extent economically
2 feasible in the performance of the contract work set forth in this document.’ if a state contracting
3 agency issues the request for proposals.

4 “(g) Require the contractor or subcontractor to possess an asbestos abatement license, if re-
5 quired under ORS 468A.710.

6 “(h) Include all contractual terms and conditions applicable to the procurement. The contract
7 terms and conditions shall specify clear consequences for a contractor’s failure to perform the scope
8 of work identified in the request for proposals or the contractor’s failure to meet established per-
9 formance standards. The consequences may include, but are not limited to:

10 “(A) Reducing or withholding payment;

11 “(B) Requiring the contractor to perform, at the contractor’s expense, additional work necessary
12 to perform the identified scope of work or meet the established performance standards; or

13 “(C) Declaring a default, terminating the public contract and seeking damages and other relief
14 available under the terms of the public contract or other applicable law.

15 “(3) The request for proposals also may:

16 “(a) Identify contractual terms or conditions that the contracting agency reserves, in the request
17 for proposals, for negotiation with proposers;

18 “(b) Request that proposers propose contractual terms and conditions that relate to subject
19 matter reasonably identified in the request for proposals;

20 “(c) Contain or incorporate the form and content of the contract that the contracting agency
21 will accept, or suggest contract terms and conditions that nevertheless may be the subject of nego-
22 tiations with proposers;

23 “(d) Announce the method the contracting agency will use to select the contractor, which may
24 include, but is not limited to, negotiating with the highest ranked proposer, competitive negotiations,
25 a multiple-tiered competition that is designed to identify a class of proposers that fall within a
26 competitive range or to otherwise eliminate from consideration a class of lower ranked proposers
27 or a combination of methods, as authorized or prescribed by rules adopted under ORS 279A.065; and

28 “(e) Describe the manner in which the contracting agency will evaluate proposals, identifying
29 the relative importance of price and other factors the contracting agency will use to evaluate and
30 rate the proposals in the first tier of competition. If the contracting agency uses more than one tier
31 of competitive evaluation, the request for proposals must describe the process the contracting
32 agency will use to evaluate proposals in the subsequent tiers.

33 “(4)(a) The contracting agency may require proposal security in any form the contracting agency
34 deems prudent. Proposal security shall serve the same function with respect to requests for pro-
35 posals as bid security serves with respect to invitations to bid under ORS 279B.055.

36 “(b) The contracting agency shall return the proposal security to all proposers upon the exe-
37 cution of the contract.

38 “(c) The contracting agency shall retain the proposal security if a proposer who is awarded a
39 contract fails to promptly and properly execute the contract. For purposes of this paragraph, prompt
40 and proper execution of the contract includes all action by a proposer that is necessary to form a
41 contract in accordance with the request for proposals, including posting performance security and
42 submitting proof of insurance when the request for proposals requires the submission. If contract
43 negotiations or competitive negotiations are conducted, the failure, prior to award, of a contracting
44 agency and a proposer to reach agreement does not constitute grounds for retaining proposal secu-
45 rity.

1 “(5) Public notice of the request for proposals must be given in the same manner as provided for
2 public notice of invitations to bid in ORS 279B.055 (4).

3 “(6)(a) Notwithstanding ORS 192.410 to 192.505, proposals may be opened in a manner to avoid
4 disclosing contents to competing proposers during, when applicable, the process of negotiation, but
5 the contracting agency shall record and make available the identity of all proposers as part of the
6 contracting agency’s public records after the proposals are opened. Notwithstanding ORS 192.410
7 to 192.505, proposals are not required to be open for public inspection until after the notice of intent
8 to award a contract is issued. The fact that proposals are opened at a meeting, as defined in ORS
9 192.610, does not make the contents of the proposals subject to disclosure, regardless of whether the
10 public body opening the proposals fails to give notice of or provide for an executive session for the
11 purpose of opening proposals.

12 “(b) Notwithstanding a requirement to make proposals open to public inspection after the con-
13 tracting agency issues notice of intent to award a contract, a contracting agency may withhold from
14 disclosure to the public materials included in a proposal that are exempt or conditionally exempt
15 from disclosure under [ORS 192.501 or 192.502] **sections 11 to 21 of this 2011 Act.**

16 “(c) If a request for proposals is canceled under ORS 279B.100 after proposals are received or
17 if a proposal is rejected, the contracting agency may return a proposal to the proposer that made
18 the proposal. The contracting agency shall keep a list of returned proposals in the file for the so-
19 licitation.

20 “(7) As provided in the request for proposals or in written addenda issued thereunder, the con-
21 tracting agency may conduct site tours, demonstrations, individual or group discussions and other
22 informational activities with proposers before or after the opening of proposals for the purpose of
23 clarification to ensure full understanding of, and responsiveness to, the solicitation requirements or
24 to consider and respond to requests for modifications of the proposal requirements. The contracting
25 agency shall use procedures designed to accord proposers fair and equal treatment with respect to
26 any opportunity for discussion and revision of proposals.

27 “(8) For purposes of evaluation, when provided for in the request for proposals, the contracting
28 agency may employ methods of contractor selection that include, but are not limited to:

29 “(a) An award or awards based solely on the ranking of proposals;

30 “(b) Discussions leading to best and final offers, in which the contracting agency may not dis-
31 close private discussions leading to best and final offers;

32 “(c) Discussions leading to best and final offers, in which the contracting agency may not dis-
33 close information derived from proposals submitted by competing proposers;

34 “(d) Serial negotiations, beginning with the highest ranked proposer;

35 “(e) Competitive simultaneous negotiations;

36 “(f) Multiple-tiered competition designed to identify, at each level, a class of proposers that fall
37 within a competitive range or to otherwise eliminate from consideration a class of lower ranked
38 proposers;

39 “(g) A multistep request for proposals requesting the submission of unpriced technical submit-
40 tals, and then later issuing a request for proposals limited to the proposers whose technical sub-
41 mittals the contracting agency had determined to be qualified under the criteria set forth in the
42 initial request for proposals; or

43 “(h) A combination of methods described in this subsection, as authorized or prescribed by rules
44 adopted under ORS 279A.065.

45 “(9) Revisions of proposals may be permitted after the submission of proposals and before award

1 for the purpose of obtaining best offers or best and final offers.

2 “(10) After the opening of proposals, a contracting agency may issue or electronically post an
3 addendum to the request for proposals that modifies the criteria, rating process and procedure for
4 any tier of competition before the start of the tier to which the addendum applies. The contracting
5 agency shall send an addendum that is issued by a method other than electronic posting to all
6 proposers who are eligible to compete under the addendum. The contracting agency shall issue or
7 post the addendum at least five days before the start of the subject tier of competition or as the
8 contracting agency otherwise determines is adequate to allow eligible proposers to prepare for the
9 competition in accordance with rules adopted under ORS 279A.065.

10 “(11) The cancellation of requests for proposals and the rejection of proposals must be in ac-
11 cordance with ORS 279B.100.

12 “(12) In the request for proposals, the contracting agency shall describe the methods by which
13 the agency will make the results of each tier of competitive evaluation available to the proposers
14 who competed in the tier. The contracting agency shall include a description of the manner in which
15 the proposers who are eliminated from further competition may protest or otherwise object to the
16 contracting agency’s decision.

17 “(13) The contracting agency shall issue or electronically post the notice of intent to award
18 described in ORS 279B.135 to each proposer who was evaluated in the final competitive tier.

19 “(14) If the contracting agency awards a contract, the contracting agency shall award the con-
20 tract to the responsible proposer whose proposal the contracting agency determines in writing is the
21 most advantageous to the contracting agency based on the evaluation process and evaluation factors
22 described in the request for proposals, applicable preferences described in ORS 279A.120 and
23 279A.125 and, when applicable, the outcome of any negotiations authorized by the request for pro-
24 posals. Other factors may not be used in the evaluation. When the request for proposals specifies
25 or authorizes awarding multiple public contracts, the contracting agency shall award public con-
26 tracts to the responsible proposers who qualify for the award of a contract under the terms of the
27 request for proposals.

28 “(15) The contracting agency may issue a request for information, a request for interest, a re-
29 quest for qualifications or other preliminary documents to obtain information useful in preparing a
30 request for proposals.

31 “(16) Before executing a contract solicited under this section, a contracting agency shall obtain
32 the proposer’s agreement to perform the scope of work and meet the performance standards set forth
33 in the final negotiated scope of work.

34 “**SECTION 42.** ORS 279C.107 is amended to read:

35 “279C.107. (1) Notwithstanding the public records law, ORS 192.410 to 192.505, if a contracting
36 agency solicits a contract for architectural, engineering or land surveying services or related ser-
37 vices by a competitive proposal:

38 “(a) Proposals may be opened so as to avoid disclosure of contents to competing proposers dur-
39 ing, when applicable, the process of negotiation.

40 “(b) Proposals are not required to be open for public inspection until after the notice of intent
41 to award a contract is issued.

42 “(2) Notwithstanding any requirement to make proposals open to public inspection after the
43 contracting agency’s issuance of notice of intent to award a contract, a contracting agency may
44 withhold from disclosure to the public trade secrets, as defined in [ORS 192.501] **section 14 (1)(a)**
45 **of this 2011 Act**, and information submitted to a public body in confidence, as described in [ORS

1 192.502] **section 19 (2)(b) of this 2011 Act**, that are contained in a proposal. The fact that proposals
2 are opened at a public meeting as defined in ORS 192.610 does not make their contents subject to
3 disclosure, regardless of whether the public body opening the proposals fails to give notice of or
4 provide for an executive session for the purpose of opening proposals. If a request for proposals is
5 canceled after proposals are received, the contracting agency may return a proposal to the proposer
6 that made the proposal. The contracting agency shall keep a list of returned proposals in the file
7 for the solicitation.

8 **“SECTION 43.** ORS 279C.410 is amended to read:

9 “279C.410. (1) Notwithstanding the public records law, ORS 192.410 to 192.505:

10 “(a) Proposals may be opened so as to avoid disclosure of contents to competing proposers dur-
11 ing, when applicable, the process of negotiation.

12 “(b) Proposals are not required to be open for public inspection until after the notice of intent
13 to award a contract is issued.

14 “(2) For each request for proposals, the contracting agency shall prepare a list of proposals.

15 “(3) Notwithstanding any requirement to make proposals open to public inspection after the
16 contracting agency’s issuance of notice of intent to award a contract, a contracting agency may
17 withhold from disclosure to the public trade secrets, as defined in [ORS 192.501] **section 14 (1)(a)**
18 **of this 2011 Act**, and information submitted to a public body in confidence, as described in [ORS
19 192.502] **section 19 (2)(b) of this 2011 Act**, that are contained in a proposal. The fact that proposals
20 are opened at a public meeting as defined in ORS 192.610 does not make their contents subject to
21 disclosure, regardless of whether the public body opening the proposals fails to give notice of or
22 provide for an executive session for the purpose of opening proposals. If a request for proposals is
23 canceled after proposals are received, the contracting agency may return a proposal to the proposer
24 that made the proposal. The contracting agency shall keep a list of returned proposals in the file
25 for the solicitation.

26 “(4) As provided in the request for proposals, a contracting agency may conduct discussions with
27 proposers who submit proposals the agency has determined to be closely competitive or to have a
28 reasonable chance of being selected for award. The discussions may be conducted for the purpose
29 of clarification to ensure full understanding of, and responsiveness to, the solicitation requirements.
30 The contracting agency shall accord proposers fair and equal treatment with respect to any oppor-
31 tunity for discussion and revision of proposals. Revisions of proposals may be permitted after the
32 submission of proposals and before award for the purpose of obtaining best and final offers. In con-
33 ducting discussions, the contracting agency may not disclose information derived from proposals
34 submitted by competing proposers.

35 “(5) When provided for in the request for proposals, the contracting agency may employ methods
36 of contractor selection including but not limited to award based solely on the ranking of proposals,
37 negotiation with the highest ranked proposer, competitive negotiations, multiple-tiered competition
38 designed to identify a class of proposers that fall within a competitive range or to otherwise elimi-
39 nate from consideration a class of lower ranked proposers, or any combination of methods, as au-
40 thorized or prescribed by rules adopted under ORS 279A.065. When applicable, in any instance in
41 which the contracting agency determines that impasse has been reached in negotiations with a
42 highest ranked proposer, the contracting agency may terminate negotiations with that proposer and
43 commence negotiations with the next highest ranked proposer.

44 “(6) The cancellation of requests for proposals and the rejection of proposals shall be in ac-
45 cordance with ORS 279C.395.

1 “(7) At least seven days before the award of a public improvement contract, unless the con-
2 tracting agency determines that seven days is impractical under rules adopted under ORS 279A.065,
3 the contracting agency shall issue to each proposer or post, electronically or otherwise, a notice
4 of intent to award.

5 “(8) If a public improvement contract is awarded, the contracting agency shall award a public
6 improvement contract to the responsible proposer whose proposal is determined in writing to be the
7 most advantageous to the contracting agency based on the evaluation factors set forth in the re-
8 quest for proposals and, when applicable, the outcome of any negotiations authorized by the request
9 for proposals. Other factors may not be used in the evaluation.

10 “**SECTION 44.** ORS 285C.145 is amended to read:

11 “285C.145. (1) The Legislative Assembly finds that the standard procedure for authorization in
12 an enterprise zone inappropriately deters development or redevelopment of qualified buildings on
13 speculation for subsequent sale or lease to eligible business firms.

14 “(2) Notwithstanding ORS 285C.140 (1), a new building or structure or an addition to or modifi-
15 cation of an existing building or structure may qualify for the exemption allowed under ORS
16 285C.175 if the qualified property is leased or sold by an unrelated party to one or more authorized
17 business firms after commencement of the construction, addition or modification but prior to use or
18 occupancy of the qualified property.

19 “(3) A business firm may not be considered authorized and is not qualified for the exemption
20 allowed under ORS 285C.175 if the county assessor discovers prior to initially granting the ex-
21 emption that the application for authorization was not submitted by the business firm in a timely
22 manner in accordance with ORS 285C.140, except as allowed under subsection (2) of this section or
23 ORS 285C.140 (11) and (12).

24 “(4) Records, communications or information submitted to a public body by a business firm for
25 purposes of ORS 285C.050 to 285C.250 that identify a particular qualified property, that reveal in-
26 vestment plans prior to authorization, that include the compensation the firm provides to firm em-
27 ployees, that are described in [*ORS 192.502 (17)*] **section 14 (2)(b) of this 2011 Act** or that are
28 submitted under ORS 285C.225 or 285C.235 are exempt from disclosure under ORS 192.410 to 192.505
29 and, as appropriate, shall be shared among the county assessor, the zone sponsor, the Department
30 of Revenue and the Oregon Business Development Department.

31 “**SECTION 45.** ORS 287A.350 is amended to read:

32 “287A.350. The records of registered bond ownership, whether maintained by a public body or
33 otherwise, are not public records within the meaning of ORS 192.410 [(4)].

34 “**SECTION 46.** ORS 312.030 is amended to read:

35 “312.030. (1) Within two months after the day of delinquency of taxes of each year the tax col-
36 lector shall prepare a list of all real properties then subject to foreclosure. The list shall be known
37 as the foreclosure list and shall contain:

38 “(a) The names of the several persons appearing in the latest tax roll as the respective owners
39 of tax-delinquent properties. If the owner of the property is an attorney or public safety officer who
40 has applied for an exemption under [*ORS 192.501*] **section 18 (1)(d) and (e) of this 2011 Act**, the
41 list shall state that the name of the owner is suppressed by law.

42 “(b) A description of each such property as it appears in the latest tax roll.

43 “(c) The year or years for which taxes are delinquent on each property.

44 “(d) The principal amount of the delinquent taxes of each year and the amount of accrued and
45 accruing interest thereon to the day of publication.

1 “(2) Thereafter, and until judgment is obtained pursuant to ORS 312.090, interest shall be
2 charged and collected on each of the several amounts of taxes included in the foreclosure list at the
3 rate provided in ORS 311.505 (2).

4 “**NOTE:** Sections 47 and 48 were deleted by amendment. Subsequent sections were not renum-
5 bered.

6 “**SECTION 49.** ORS 312.190 is amended to read:

7 “312.190. Subject to an exemption from disclosure that applies under [ORS 192.501] **sections 11**
8 **to 21 of this 2011 Act:**

9 “(1) Not more than 30 days nor less than 10 days prior to the expiration of the period of re-
10 demption of any real property ordered sold to the county under a judgment under ORS 312.100, the
11 tax collector shall publish a general notice relative to the expiration of the period of redemption.

12 “(2) The notice shall contain the date of the judgment, the date of expiration of the period of
13 redemption, and warning to the effect that all the properties ordered sold under the judgment, unless
14 sooner redeemed, will be deeded to the county immediately on expiration of the period of redemption
15 and that every right or interest of any person in the properties will be forfeited forever to the
16 county.

17 “(3) The notice shall be published in two weekly issues of a duly designated newspaper of gen-
18 eral circulation in the county within the period of 20 days as specified in this section. Proof of
19 publication shall be attached to and made a part of the deed issued to the county. The published
20 notice may be a general notice and it shall not be necessary to include therein descriptions of the
21 several properties or the names of the respective owners.

22 “**SECTION 49a.** ORS 339.388 is amended to read:

23 “339.388. (1)(a) A school employee having reasonable cause to believe that a child with whom
24 the employee comes in contact has suffered abuse by another school employee, or that another
25 school employee with whom the employee comes in contact has abused a child, shall immediately
26 report the information to:

27 “(A) A supervisor or other person designated by the school board; and

28 “(B) A law enforcement agency, the Department of Human Services or a designee of the de-
29 partment as required by ORS 419B.010 and 419B.015.

30 “(b) A school employee having reasonable cause to believe that a student with whom the em-
31 ployee comes in contact has been subjected to sexual conduct by another school employee, or that
32 another school employee with whom the employee comes in contact has engaged in sexual conduct,
33 shall immediately report the information to a supervisor or other person designated by the school
34 board.

35 “(2) A supervisor or other person designated by the school board who receives a report under
36 subsection (1) of this section, shall follow the procedures required by the policy adopted by the
37 school board under ORS 339.372.

38 “(3)(a) Except as provided in subsection (4) of this section, when an education provider receives
39 a report of suspected child abuse or sexual conduct by one of its employees, and the education
40 provider’s designee determines that there is reasonable cause to support the report, the education
41 provider:

42 “(A) In the case of suspected child abuse, shall place the school employee on paid administrative
43 leave; or

44 “(B) In the case of suspected sexual conduct, may place the school employee on paid adminis-
45 trative leave or in a position that does not involve direct, unsupervised contact with children.

1 “(b) A school employee who is placed on paid administrative leave under paragraph (a)(A) of this
2 subsection shall remain on administrative leave until:

3 “(A) The Department of Human Services or a law enforcement agency determines that the re-
4 port cannot be substantiated or that the report will not be pursued; or

5 “(B) The Department of Human Services or a law enforcement agency determines that the report
6 is substantiated and the education provider takes the appropriate disciplinary action against the
7 school employee.

8 “(4) An education provider may reinstate a school employee placed on paid administrative leave
9 for suspected child abuse as provided under subsection (3) of this section or may take the appro-
10 priate disciplinary action against the employee if the Department of Human Services or a law
11 enforcement agency is unable to determine, based on a report of suspected child abuse, whether
12 child abuse occurred.

13 “(5) If, following an investigation, an education provider determines that the report of suspected
14 child abuse or sexual conduct is a substantiated report, the education provider shall:

15 “(a) Inform the school employee that the education provider has determined that the report has
16 been substantiated.

17 “(b) Provide the school employee with information about the appropriate appeal process for the
18 determination made by the education provider. The appeal process may be the process provided by
19 a collective bargaining agreement or a process administered by a neutral third party and paid for
20 by the school district.

21 “(c) Following notice of a school employee’s decision not to appeal the determination or fol-
22 lowing the determination of an appeal that sustained the substantiated report, create a record of the
23 substantiated report and place the record in the personnel file of the school employee. Records
24 created pursuant to this paragraph are confidential and are not public records as defined in ORS
25 192.410. An education provider may use the record as a basis for providing the information required
26 to be disclosed under ORS 339.378.

27 “(d) Inform the school employee that information about substantiated reports may be disclosed
28 to a potential employer as provided by subsection (7) of this section and ORS 339.378.

29 “(6) Upon request from a law enforcement agency, the Department of Human Services or the
30 Teacher Standards and Practices Commission, a school district shall provide the records of investi-
31 gations of suspected child abuse by a school employee or former school employee.

32 “(7)(a) The disciplinary records of a school employee or former school employee convicted of a
33 crime listed in ORS 342.143 are not exempt from disclosure under [ORS 192.501 or 192.502] **sections**
34 **11 to 21 of this 2011 Act.**

35 “(b) If a school employee is convicted of a crime listed in ORS 342.143, the education provider
36 that is the employer of the employee shall disclose the disciplinary records of the employee to any
37 person upon request.

38 “(c) If a former school employee is convicted of a crime listed in ORS 342.143, the education
39 provider that was the employer of the former employee when the crime was committed shall disclose
40 the disciplinary records of the former employee to any person upon request.

41 “(8) Prior to disclosure of a disciplinary record under subsection (7) of this section, an education
42 provider shall remove any personally identifiable information from the record that would disclose
43 the identity of a child, a crime victim or a school employee or former school employee who is not
44 the subject of the disciplinary record.

45 “**SECTION 50.** ORS 358.905 is amended to read:

1 “358.905. (1) As used in ORS [192.005, 192.501 to 192.505,] 358.905 to 358.961 and 390.235:
2 “(a) ‘Archaeological object’ means an object that:
3 “(A) Is at least 75 years old;
4 “(B) Is part of the physical record of an indigenous or other culture found in the state or waters
5 of the state; and
6 “(C) Is material remains of past human life or activity that are of archaeological significance
7 including, but not limited to, monuments, symbols, tools, facilities, technological by-products and
8 dietary by-products.
9 “(b) ‘Site of archaeological significance’ means:
10 “(A) Any archaeological site on, or eligible for inclusion on, the National Register of Historic
11 Places as determined in writing by the State Historic Preservation Officer; or
12 “(B) Any archaeological site that has been determined significant in writing by an Indian tribe.
13 “(c)(A) ‘Archaeological site’ means a geographic locality in Oregon, including but not limited to
14 submerged and submersible lands and the bed of the sea within the state’s jurisdiction, that contains
15 archaeological objects and the contextual associations of the archaeological objects with:
16 “(i) Each other; or
17 “(ii) Biotic or geological remains or deposits.
18 “(B) Examples of archaeological sites described in subparagraph (A) of this paragraph include
19 but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters,
20 homesteads and townsites.
21 “(d) ‘Indian tribe’ has the meaning given that term in ORS 97.740.
22 “(e) ‘Burial’ means any natural or prepared physical location whether originally below, on or
23 above the surface of the earth, into which, as a part of a death rite or death ceremony of a culture,
24 human remains were deposited.
25 “(f) ‘Funerary objects’ means any artifacts or objects that, as part of a death rite or ceremony
26 of a culture, are reasonably believed to have been placed with individual human remains either at
27 the time of death or later.
28 “(g) ‘Human remains’ means the physical remains of a human body, including, but not limited
29 to, bones, teeth, hair, ashes or mummified or otherwise preserved soft tissues of an individual.
30 “(h) ‘Object of cultural patrimony’:
31 “(A) Means an object having ongoing historical, traditional or cultural importance central to the
32 native Indian group or culture itself, rather than property owned by an individual native Indian, and
33 which, therefore, cannot be alienated, appropriated or conveyed by an individual regardless of
34 whether or not the individual is a member of the Indian tribe. The object shall have been considered
35 inalienable by the native Indian group at the time the object was separated from such group.
36 “(B) Does not mean unassociated arrowheads, baskets or stone tools or portions of arrowheads,
37 baskets or stone tools.
38 “(i) ‘Police officer’ has the meaning given that term in ORS 181.610.
39 “(j) ‘Public lands’ means any lands owned by the State of Oregon, a city, county, district or
40 municipal or public corporation in Oregon.
41 “(k) ‘Sacred object’ means an archaeological object or other object that:
42 “(A) Is demonstrably revered by any ethnic group, religious group or Indian tribe as holy;
43 “(B) Is used in connection with the religious or spiritual service or worship of a deity or spirit
44 power; or
45 “(C) Was or is needed by traditional native Indian religious leaders for the practice of tradi-

1 tional native Indian religion.

2 “(L) ‘State police’ has the meaning given that term in ORS 181.010.

3 “(2) The terms set forth in subsection (1)(e), (f), (g), (h) and (k) of this section shall be interpreted
4 in the same manner as similar terms interpreted pursuant to 25 U.S.C. 3001 et seq.

5 “**SECTION 51.** ORS 358.915 is amended to read:

6 “358.915. The provisions of ORS [192.005, 192.501 to 192.505,] 273.990, 358.905 to 358.961 and
7 390.235 do not apply to a person who unintentionally discovers an archaeological object that has
8 been exposed by the forces of nature on public land or private property and retains the object for
9 personal use, except for sacred objects, human remains, funerary objects or objects of cultural
10 patrimony.

11 “**SECTION 52.** ORS 409.225 is amended to read:

12 “409.225. (1) In the interest of family privacy and for the protection of children, families and
13 other recipients of services, the Department of Human Services shall not disclose or use the con-
14 tents of any child welfare records, files, papers or communications that contain any information
15 about an individual child, family or other recipient of services for purposes other than those directly
16 connected with the administration of child welfare laws or unless required or authorized by ORS
17 419A.255 or 419B.035. The records, files, papers and communications are confidential and are not
18 available for public inspection. General information, policy statements, statistical reports or similar
19 compilations of data are not confidential unless such information is identified with an individual
20 child, family or other recipient of services or protected by other provision of law.

21 “(2) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
22 chapter 192, the department shall disclose child welfare records:

23 “(a) About a recipient of services, to the recipient if the recipient is 18 years of age or older
24 or is legally emancipated, unless prohibited by court order;

25 “(b) Regarding a specific individual if the individual gives written authorization to release con-
26 fidential information;

27 “(c) Concerning a child receiving services on a voluntary basis, to the child’s parent or legal
28 guardian;

29 “(d) To the juvenile court in proceedings regarding the child; and

30 “(e) Concerning a child who is or has been in the custody of the department, to the child’s
31 parent or legal guardian except:

32 “(A) When the child objects; or

33 “(B) If disclosure would be contrary to the best interests of any child or could be harmful to the
34 person caring for the child.

35 “(3) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
36 chapter 192, the department shall disclose child welfare records, if in the best interests of the child,
37 to:

38 “(a) Treatment providers, foster parents, adoptive parents, school officials or other persons
39 providing services to the child or family to the extent that such disclosure is necessary to provide
40 services to the child or family; or

41 “(b) A person designated as a member of a sensitive review committee convened by the Director
42 of Human Services when the purpose of the committee is to determine whether the department acted
43 appropriately and to make recommendations to the department regarding policy and practice.

44 “(4) Any record disclosed under subsection (1), (2) or (3) of this section shall be kept confidential
45 by the person or entity to whom the record is disclosed and shall be used only for the purpose for

1 which disclosure was made.

2 “(5) Unless exempt from disclosure under ORS chapter 192, when an adult who is the subject
3 of information made confidential by subsection (1) of this section publicly reveals or causes to be
4 revealed any significant part of the confidential matter or information, the protections afforded by
5 subsection (1) of this section are presumed voluntarily waived and confidential information about the
6 person making or causing the public disclosure, not already disclosed but related to the information
7 made public, may be disclosed if disclosure is in the best interests of the child or necessary to the
8 administration of the child welfare laws.

9 “(6) Notwithstanding subsection (1) of this section, unless exempt from disclosure under ORS
10 chapter 192, the department shall disclose information related to the department’s activities and
11 responsibilities in a case where child abuse or neglect has resulted in a child fatality or near fatality
12 or where an adult has been charged with a crime related to child abuse or neglect.

13 “(7) Notwithstanding subsections (2), (3), (5) and (6) of this section, [*ORS 192.501 (3) shall*
14 *apply*] **section 11 (1) of this 2011 Act applies** to investigatory information compiled for criminal
15 law purposes that may be in the possession of the department.

16 “(8) As used in this section, ‘adult’ means a person who is 18 years of age or older.

17 “**SECTION 53.** ORS 419C.532 is amended to read:

18 “419C.532. (1) The juvenile panel of the Psychiatric Security Review Board shall conduct
19 hearings on an application for discharge, conditional release, commitment or modification filed under
20 or required by ORS 419C.538, 419C.540 and 419C.542, and shall make findings on the issues before
21 the juvenile panel.

22 “(2) In every hearing before the juvenile panel, the juvenile panel shall determine whether the
23 young person:

24 “(a) Has a serious mental condition; or

25 “(b) Has a mental disease or defect other than a serious mental condition and presents a sub-
26 stantial danger to others.

27 “(3) The juvenile panel shall order a young person discharged from commitment or conditional
28 release if the juvenile panel finds that the young person:

29 “(a) No longer has a mental disease or defect; or

30 “(b) Has a mental disease or defect other than a serious mental condition but no longer presents
31 a substantial danger to others.

32 “(4) The juvenile panel shall order a young person conditionally released subject to ORS
33 419C.538 if the juvenile panel finds that:

34 “(a) The young person:

35 “(A) Has a serious mental condition; or

36 “(B) Has a mental disease or defect other than a serious mental condition and presents a sub-
37 stantial danger to others;

38 “(b) The young person can be adequately controlled with treatment services as a condition of
39 release; and

40 “(c) Necessary supervision and treatment services are available.

41 “(5) The juvenile panel shall order a young person committed to, or retained in, a hospital or
42 facility designated by the Department of Human Services or the Oregon Health Authority for cus-
43 tody, supervision and treatment subject to ORS 419C.540 if the juvenile panel finds that the young
44 person:

45 “(a)(A) Has a serious mental condition; or

1 “(B) Has a mental disease or defect other than a serious mental condition and presents a sub-
2 stantial danger to others; and

3 “(b) Cannot be adequately controlled if conditionally released.

4 “(6) In determining whether a young person should be committed to or retained in a hospital
5 or facility, conditionally released or discharged, the primary concern of the juvenile panel is the
6 protection of society.

7 “(7) In a hearing before the juvenile panel, a young person who has a mental disease or defect
8 in a state of remission is considered to have a mental disease or defect if the mental disease or
9 defect may, with reasonable medical probability, occasionally become active.

10 “(8) At any time, the juvenile panel may appoint a psychiatrist certified, or eligible to be certi-
11 fied, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in
12 child psychology to examine the young person and submit a written report to the juvenile panel.
13 Reports filed with the juvenile panel pursuant to the examination must include, but need not be
14 limited to, an opinion as to whether the young person:

15 “(a)(A) Has a serious mental condition; or

16 “(B) Has a mental disease or defect other than a serious mental condition and presents a sub-
17 stantial danger to others; and

18 “(b) Could be adequately controlled with treatment services as a condition of release.

19 “(9) The juvenile panel may make a determination regarding discharge or conditional release
20 based upon the written report submitted under subsection (8) of this section or ORS 419C.540 (3).
21 If a member of the juvenile panel desires further information from the examining psychiatrist or li-
22 censed psychologist who submitted the report, the juvenile panel shall summon the psychiatrist or
23 psychologist to give testimony.

24 “(10) The juvenile panel shall consider all available evidence that is material, relevant and re-
25 liable regarding the issues before the juvenile panel. Evidence may include, but is not limited to, the
26 record of the juvenile court adjudication, information supplied by the attorney representing the state
27 or by any other interested person, including the young person, information concerning the young
28 person’s mental condition and the entire psychiatric and juvenile court history of the young person.
29 All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their
30 serious affairs is admissible at the hearings. Testimony must be taken upon oath or affirmation of
31 the witness from whom received. The officer presiding at the hearing shall administer oaths and
32 affirmations to witnesses.

33 “(11) The standard of proof on all issues at a hearing of the juvenile panel is by a preponderance
34 of the evidence.

35 “(12)(a) The juvenile panel shall furnish written notice of any hearing pending under this section
36 within a reasonable time prior to the hearing to:

37 “(A) The young person about whom the hearing is being conducted;

38 “(B) The attorney representing the young person;

39 “(C) The young person’s parents or guardians, if known;

40 “(D) The person having legal custody of the young person;

41 “(E) The Attorney General or other attorney representing the state, if any; and

42 “(F) The district attorney and the court or juvenile department of the county in which the young
43 person was adjudicated.

44 “(b) The juvenile panel shall include in the notice required by paragraph (a) of this subsection:

45 “(A) The time, place and location of the hearing;

1 “(B) The nature of the hearing, the specific action for which the hearing has been requested, the
2 issues to be considered at the hearing and a reference to the particular sections of the statutes and
3 rules involved;

4 “(C) A statement of the authority and jurisdiction under which the hearing is to be held; and

5 “(D) A statement of all rights under subsection (13) of this section.

6 “(13) A young person about whom a hearing is being held has the right:

7 “(a) To appear at all proceedings held under this section, except juvenile panel deliberations.

8 “(b) To cross-examine all witnesses appearing to testify at the hearing.

9 “(c) To subpoena witnesses and documents as provided in ORS 161.395.

10 “(d) To be represented by suitable legal counsel possessing skills and experience commensurate
11 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
12 nancially eligible, to have suitable counsel appointed at state expense.

13 “(e) To examine all information, documents and reports that the juvenile panel considers and,
14 if the information, documents and reports are available to the juvenile panel before the hearing, to
15 examine them prior to the hearing.

16 “(14) Except for deliberations of the juvenile panel, the juvenile panel shall keep a record of all
17 hearings before the juvenile panel.

18 “(15) Upon request of a person listed in subsection (12)(a) of this section or on its own motion,
19 the juvenile panel may continue a hearing for a reasonable period not to exceed 60 days to obtain
20 additional information or testimony or for other good cause shown.

21 “(16) Within 15 days after the conclusion of the hearing, the juvenile panel shall provide written
22 notice of the juvenile panel’s decision to the young person, the attorney representing the young
23 person, the young person’s parents or guardians, if known, the person having legal custody of the
24 young person, the district attorney of the county in which the young person was adjudicated and
25 the Attorney General or other attorney representing the state, if any.

26 “(17) The juvenile panel shall maintain and keep current the medical, social and delinquency
27 history of all young persons. The juvenile panel shall determine the confidentiality of records
28 maintained by the juvenile panel pursuant to [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011**
29 **Act.**

30 “**SECTION 54.** ORS 421.344 is amended to read:

31 “421.344. There is established Oregon Corrections Enterprises, a semi-independent agency. The
32 Director of the Department of Corrections shall assign or appoint an administrator who shall serve
33 at the pleasure of the director. The administrator shall have authority to do all things necessary
34 and convenient to carry out ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442,
35 421.444 and 421.445.

36 “**SECTION 55.** ORS 421.347 is amended to read:

37 “421.347. (1) The administrator of Oregon Corrections Enterprises shall establish, by the issu-
38 ance of a policy directive or order, an advisory council consisting of not fewer than three members
39 to provide policy input concerning Oregon Corrections Enterprises operations and its discharge of
40 the functions and duties prescribed by section 41, Article I of the Oregon Constitution, and ORS
41 [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442, 421.444 and 421.445. The council shall
42 select one of its members as chairperson. The council shall meet not less frequently than semian-
43 nually at the offices of Oregon Corrections Enterprises. The council shall meet at such other times
44 and places specified by the administrator. All members shall be entitled to expenses as provided in
45 ORS 292.495.

1 “(2) The membership of the advisory council shall consist of at least one representative of each
2 of the following interests, as determined at the discretion of the administrator:

3 “(a) At least one member shall be a person who has experience in, and can represent the in-
4 terests and perspective of the banking or finance industry;

5 “(b) At least one member shall be a person who has experience in and can represent the inter-
6 ests and perspective of private business in Oregon; and

7 “(c) At least one member shall be a person who has experience in the field of labor relations
8 and can represent the interests and perspective of organized labor.

9 “(3) Members of the advisory council must be citizens of the United States and residents of the
10 State of Oregon. No member of the council may be an employee of the Department of Corrections
11 or of Oregon Corrections Enterprises.

12 “(4) The order or policy directive that establishes the advisory council may specify the terms
13 of office of members of the council and may provide for removal of members from the advisory
14 council by the administrator, either at the pleasure of the administrator or for other grounds spec-
15 ified in the order or policy directive. Upon the expiration or termination of the term of any member
16 appointed to represent an interest under subsection (2) of this section, the administrator shall ap-
17 point a successor to represent that interest. A member of the advisory council shall be eligible for
18 reappointment.

19 “**SECTION 56.** ORS 421.349 is amended to read:

20 “421.349. In addition to the advisory council required by ORS 421.347, the administrator may
21 establish, by the issuance of a policy directive or order, one or more advisory committees, bodies
22 or advisors to advise and assist Oregon Corrections Enterprises in discharging its functions and
23 duties as prescribed by section 41, Article I of the Oregon Constitution, and ORS [192.502,] 421.305,
24 421.312, 421.344 to 421.367, 421.412, 421.442, 421.444 and 421.445. The administrator may authorize
25 the payment of expenses, as provided in ORS 292.495, to the members of any advisory committee or
26 body established under this section.

27 “**SECTION 57.** ORS 421.359 is amended to read:

28 “421.359. All income and revenues generated or received by Oregon Corrections Enterprises
29 shall remain within, and are continuously appropriated to, Oregon Corrections Enterprises for the
30 purposes of discharging the functions and duties prescribed by section 41, Article I of the Oregon
31 Constitution, and ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.442, 421.444 and
32 421.445. There shall be no commingling of funds between Oregon Corrections Enterprises and the
33 Department of Corrections.

34 “**SECTION 58.** ORS 421.442 is amended to read:

35 “421.442. (1) The Department of Corrections may create accounts and subaccounts as reasonably
36 required to discharge the functions and duties prescribed by section 41, Article I of the Oregon
37 Constitution, including accounts and subaccounts for the deposit of income generated from prison
38 work programs. Accounts and subaccounts created under this subsection shall be maintained sepa-
39 rate and distinct from the General Fund. Moneys credited to the accounts and subaccounts are
40 continuously appropriated to the department for the purpose of implementing, maintaining and de-
41 veloping prison work programs. Moneys in the department accounts or subaccounts may be trans-
42 ferred to the inmate injury component of the Insurance Fund for the payment of expenses therefrom
43 authorized by law. Moneys in the accounts or subaccounts may be invested as provided in ORS
44 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the investment of moneys in the
45 accounts or subaccounts shall be credited to the respective account or subaccount.

1 “(2) Oregon Corrections Enterprises may create accounts and subaccounts as reasonably re-
2 quired to discharge the functions and duties prescribed by section 41, Article I of the Oregon Con-
3 stitution, and ORS [192.502,] 421.305, 421.312, 421.344 to 421.367, 421.412, 421.444 and 421.445 and this
4 section, including accounts and subaccounts for the deposit of income generated from prison work
5 programs. All moneys collected or received by Oregon Corrections Enterprises shall be deposited
6 into an account or subaccounts established by Oregon Corrections Enterprises in a depository bank
7 insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance
8 Fund. The administrator shall ensure that sufficient collateral secures any amount of funds on de-
9 posit that exceeds the limits of the coverage of the Federal Deposit Insurance Corporation or the
10 National Credit Union Share Insurance Fund. All moneys in the account or subaccounts are con-
11 tinuously appropriated to Oregon Corrections Enterprises for the purpose of implementing, main-
12 taining and developing prison work programs. Moneys in the accounts or subaccounts may be
13 invested as provided in ORS 293.701 to 293.790 and as authorized by ORS 421.305. Earnings on the
14 investment of moneys in the accounts or subaccounts shall be credited to the respective account or
15 subaccount.

16 “(3) Moneys credited to or received by inmate work programs conducted by the department may
17 not be commingled with moneys credited to or received by inmate work programs conducted by
18 Oregon Corrections Enterprises.

19 “(4) Moneys in the accounts or subaccounts are available for implementing, maintaining and
20 developing prison work and on-the-job training programs, including, but not limited to:

21 “(a) The purchase of all necessary machinery and equipment for establishing, equipping and
22 enlarging prison industries;

23 “(b) The purchase of raw materials, the payment of salaries and wages and all other expenses
24 necessary and proper in the judgment of the Director of the Department of Corrections or the ad-
25 ministrator of Oregon Corrections Enterprises in the conduct and operation of prison industries; and

26 “(c) Department transfers to the inmate injury component of the Insurance Fund from the pay-
27 ment of expenses authorized by law.

28 “(5) No part of the accounts or subaccounts may be expended for maintenance, repairs, con-
29 struction or reconstruction, or general or special expenses of a Department of Corrections institu-
30 tion, other than for prison work and on-the-job training programs.

31 “(6) The transfers referred to in subsections (1) and (4)(c) of this section may be authorized by
32 the Legislative Assembly, or the Emergency Board if the Legislative Assembly is not in session,
33 whenever it appears to the Legislative Assembly or the board, as the case may be, that there are
34 insufficient moneys in the inmate injury component of the Insurance Fund for the payment of ex-
35 penses authorized by law.

36 “**SECTION 59.** ORS 426.155 is amended to read:

37 “426.155. (1) The provisions of this section apply to the release of information about a person
38 who is held in custody either pending a commitment proceeding under ORS 426.070, 426.140, 426.228,
39 426.232, 426.233 or 426.237 (1)(b) or while committed or recommitted under ORS 426.005 to 426.390.

40 “(2) Notwithstanding the provisions of ORS 179.495, 179.505 or [192.502 (2)] **section 13 (1) of**
41 **this 2011 Act** and notwithstanding any other provision of ORS 426.005 to 426.390, a facility or
42 nonhospital facility where a person is held shall establish procedures for releasing information as
43 required under subsections (3) and (4) of this section.

44 “(3)(a) If a person described in subsection (1) of this section authorizes disclosure as provided
45 in subsection (5) of this section, upon request of a member of the family of the person, or any other

1 person designated by the person, a facility or nonhospital facility where the person is held shall
2 provide the family member or the designee with the following information:

3 “(A) The person’s diagnosis;

4 “(B) The person’s prognosis;

5 “(C) The medications prescribed for the person and the side effects of medications prescribed,
6 if any;

7 “(D) The person’s progress;

8 “(E) Information about any civil commitment process, including the date, time and location of
9 the person’s commitment hearing; and

10 “(F) Where and when the person may be visited.

11 “(b) If a request for information is made under this subsection and the person described in sub-
12 section (1) of this section is unable to authorize disclosure as provided in subsection (5) of this
13 section, the person requesting information shall be provided notice of the presence of the person
14 described in subsection (1) of this section in any facility or nonhospital facility. Information shall
15 not be provided under this paragraph if the physician of the person described in subsection (1) of
16 this section determines that it would not be in the person’s best interest to provide the information
17 or if providing the information is prohibited by federal law.

18 “(4) Upon the admission of any person to a facility or nonhospital facility under ORS 426.005 to
19 426.390, the facility or nonhospital facility shall make reasonable attempts to notify the person’s
20 next of kin, or any other person designated by the person, of the person’s admission, unless the
21 person requests that this information not be provided. The facility or nonhospital facility shall make
22 reasonable attempts to notify the person’s next of kin, or any other person designated by the person,
23 of the person’s release, transfer, serious illness, injury or death upon request of the family member
24 or designee, unless the person requests that this information not be provided. The person shall be
25 advised by the facility or nonhospital facility that the person has the right to request that this in-
26 formation not be provided.

27 “(5) The person who is held in custody shall be notified by the facility or nonhospital facility
28 that information about the person has been requested. Except as provided in subsection (3) of this
29 section, the consent of the person who is held is required for release of information under sub-
30 sections (3) and (4) of this section. If, when initially informed of the request for information, the
31 person is unable to give voluntary and informed consent to authorize the release of information,
32 notation of the attempt shall be made in the person’s treatment record and daily efforts shall be
33 made to secure the person’s consent or refusal of authorization.

34 “(6) Notwithstanding any other provision of this section, an individual eligible to receive infor-
35 mation under subsection (3) of this section may not receive information unless the individual first
36 agrees to make no further disclosure of the information. The agreement may be made orally.

37 “(7) A facility or nonhospital facility that releases information under subsection (3) or (4) of this
38 section shall:

39 “(a) Notify the person who is held to whom, when and what information was released; and

40 “(b) Note in the medical record of the person who is held:

41 “(A) The basis for finding that the person gave voluntary and informed consent;

42 “(B) The oral or written consent of the person who is held;

43 “(C) To whom, when and what information was released;

44 “(D) The agreement to the requirements of subsection (6) of this section by the person who re-
45 quested information; and

1 “(E) Any determination made by the person’s physician under subsection (3)(b) of this section
2 regarding the provision of notice of the presence of the person in any facility or nonhospital facility.

3 “(8) A facility or nonhospital facility, including the staff of such facilities and nonhospital fa-
4 cilities, that releases information under this section or rules adopted under ORS 426.236 may not
5 be held civilly or criminally liable for damages caused or alleged to be caused by the release of in-
6 formation or the failure to release information as long as the release was done in good faith and in
7 compliance with subsections (3) and (4) of this section or rules adopted under ORS 426.236.

8 “(9) The provisions of subsections (3) and (4) of this section do not limit the ability or obligation
9 of facilities, nonhospital facilities, physicians, mental health care providers or licensed mental health
10 professionals to provide information as otherwise allowed or required by law.

11 “**SECTION 60.** ORS 431.627 is amended to read:

12 “431.627. (1) In addition to and not in lieu of ORS 431.607 to 431.617, the Oregon Health Au-
13 thority shall designate trauma centers in areas that are within the jurisdiction of trauma advisory
14 boards other than in the area within the jurisdiction of area trauma advisory board 1.

15 “(2) The authority shall enter into contracts with designated trauma centers and monitor and
16 assure quality of care and appropriate costs for trauma patients meeting trauma system entry cri-
17 teria.

18 “(3) All findings and conclusions, interviews, reports, studies, communications and statements
19 procured by or furnished to the authority, the State Trauma Advisory Board or an area trauma ad-
20 visory board in connection with obtaining the data necessary to perform patient care quality as-
21 surance functions shall be confidential pursuant to [ORS 192.501 to 192.505] **sections 11 to 21 of**
22 **this 2011 Act.**

23 “(4)(a) All data received or compiled by the State Trauma Advisory Board or any area trauma
24 advisory board in conjunction with authority monitoring and assuring quality of trauma patient care
25 shall be confidential and privileged, nondiscoverable and inadmissible in any proceeding. No person
26 serving on or communicating information to the State Trauma Advisory Board or an area trauma
27 advisory board shall be examined as to any such communications or to the findings or recommen-
28 dations of such board. A person serving on or communicating information to the State Trauma Ad-
29 visory Board or an area trauma advisory board shall not be subject to an action for civil damages
30 for actions taken or statements made in good faith. Nothing in this section affects the admissibility
31 in evidence of a party’s medical records not otherwise confidential or privileged dealing with the
32 party’s medical care. The confidentiality provisions of ORS 41.675 and 41.685 shall also apply to the
33 monitoring and quality assurance activities of the State Trauma Advisory Board, area trauma advi-
34 sory boards and the authority.

35 “(b) As used in this section, ‘data’ includes but is not limited to written reports, notes, records
36 and recommendations.

37 “(5) Final reports by the authority, the State Trauma Advisory Board and area trauma advisory
38 boards shall be available to the public.

39 “(6) The authority shall publish a biennial report of the Emergency Medical Services and
40 Trauma Systems Program and trauma systems activities.

41 “**SECTION 61.** ORS 433.009 is amended to read:

42 “433.009. (1) Notwithstanding ORS [192.501 (3), 192.502 (2) and] 433.045 **and sections 11 (1) and**
43 **13 (1) of this 2011 Act,** if, during the course of a criminal investigation, a law enforcement unit
44 acquires information that the person who is charged with a crime or sentenced for a crime has a
45 reportable disease, the law enforcement unit shall disclose that information to the public health

1 authorities who shall confirm the diagnosis and notify any police officer, corrections officer or
2 emergency medical technician who had significant exposure to the person.

3 “(2) As used in this section:

4 “(a) ‘Emergency medical technician’ has the meaning given that term in ORS 682.025.

5 “(b) ‘Law enforcement unit,’ ‘police officer’ and ‘corrections officer’ have the meanings given
6 those terms in ORS 181.610.

7 “(c) ‘Reportable disease’ means a disease or condition, the reporting of which enables a public
8 health authority to take action to protect or to benefit the public health.

9 “**SECTION 62.** ORS 441.055 is amended to read:

10 “441.055. (1) The governing body of each health care facility shall be responsible for the opera-
11 tion of the facility, the selection of the medical staff and the quality of care rendered in the facility.
12 The governing body shall:

13 “(a) Ensure that all health care personnel for whom state licenses, registrations or certificates
14 are required are currently licensed, registered or certified;

15 “(b) Ensure that physicians admitted to practice in the facility are granted privileges consistent
16 with their individual training, experience and other qualifications;

17 “(c) Ensure that procedures for granting, restricting and terminating privileges exist and that
18 such procedures are regularly reviewed to ensure their conformity to applicable law;

19 “(d) Ensure that physicians admitted to practice in the facility are organized into a medical staff
20 in such a manner as to effectively review the professional practices of the facility for the purposes
21 of reducing morbidity and mortality and for the improvement of patient care; and

22 “(e) Ensure that a physician is not denied medical staff membership or privileges at the facility
23 solely on the basis that the physician holds medical staff membership or privileges at another health
24 care facility.

25 “(2) The physicians organized into a medical staff pursuant to subsection (1) of this section shall
26 propose medical staff bylaws to govern the medical staff. The bylaws shall include, but not be limited
27 to the following:

28 “(a) Procedures for physicians admitted to practice in the facility to organize into a medical
29 staff pursuant to subsection (1) of this section;

30 “(b) Procedures for ensuring that physicians admitted to practice in the facility are granted
31 privileges consistent with their individual training, experience and other qualifications;

32 “(c) Provisions establishing a framework for the medical staff to nominate, elect, appoint or re-
33 move officers and other persons to carry out medical staff activities with accountability to the
34 governing body;

35 “(d) Procedures for ensuring that physicians admitted to practice in the facility are currently
36 licensed by the Oregon Medical Board;

37 “(e) Procedures for ensuring that the facility’s procedures for granting, restricting and termi-
38 nating privileges are followed and that such procedures are regularly reviewed to assure their con-
39 formity to applicable law; and

40 “(f) Procedures for ensuring that physicians provide services within the scope of the privileges
41 granted by the governing body.

42 “(3) Amendments to medical staff bylaws shall be accomplished through a cooperative process
43 involving both the medical staff and the governing body. Medical staff bylaws shall be adopted, re-
44 pealed or amended when approved by the medical staff and the governing body. Approval shall not
45 be unreasonably withheld by either. Neither the medical staff nor the governing body shall withhold

1 approval if such repeal, amendment or adoption is mandated by law, statute or regulation or is
2 necessary to obtain or maintain accreditation or to comply with fiduciary responsibilities or if the
3 failure to approve would subvert the stated moral or ethical purposes of the institution.

4 “(4) The Oregon Medical Board may appoint one or more physicians to conduct peer review for
5 a health care facility upon request of such review by all of the following:

6 “(a) The physician whose practice is being reviewed.

7 “(b) The executive committee of the health care facility’s medical staff.

8 “(c) The governing body of the health care facility.

9 “(5) The physicians appointed pursuant to subsection (4) of this section shall be deemed agents
10 of the Oregon Medical Board, subject to the provisions of ORS 30.310 to 30.400 and shall conduct
11 peer review. Peer review shall be conducted pursuant to the bylaws of the requesting health care
12 facility.

13 “(6) Any person serving on or communicating information to a peer review committee shall not
14 be subject to an action for damages for action or communications or statements made in good faith.

15 “(7) All findings and conclusions, interviews, reports, studies, communications and statements
16 procured by or furnished to the peer review committee in connection with a peer review are confi-
17 dential pursuant to [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011 Act** and 192.690 and all
18 data is privileged pursuant to ORS 41.675.

19 “(8) Notwithstanding subsection (7) of this section, a written report of the findings and conclu-
20 sions of the peer review shall be provided to the governing body of the health care facility who shall
21 abide by the privileged and confidential provisions set forth in subsection (7) of this section.

22 “(9) Procedures for peer review established by subsections (4) to (8) of this section are exempt
23 from ORS chapter 183.

24 “(10) The Oregon Health Authority shall adopt by rule standards for rural hospitals, as defined
25 in ORS 442.470, that specifically address the provision of care to postpartum and newborn patients
26 so long as patient care is not adversely affected.

27 “(11) For purposes of this section, ‘physician’ has the meaning given the term in ORS 677.010.

28 “**SECTION 63.** ORS 442.583 is amended to read:

29 “442.583. (1)(a) The Health Resources Commission shall develop a medical technology assessment
30 program that addresses the introduction, diffusion and utilization of medical technologies and their
31 associated services and shall make recommendations regarding the program’s implementation.

32 “(b) The assessment program developed pursuant to paragraph (a) of this subsection shall in-
33 clude the results of at least two medical technology assessments to be selected by the commission.
34 The commission shall select one new and emerging medical technology and one established medical
35 technology to be assessed.

36 “(c) The program shall include criteria for selection of the medical technologies to be assessed.

37 “(d) The commission shall appoint and work with an advisory committee whose members shall
38 have the appropriate expertise to develop a medical technology assessment program. The advisory
39 committee shall present its recommendations to the commission at a public hearing. The commission
40 shall conduct public hearings to solicit testimony and information from health care consumers prior
41 to making the report described in subsection (2) of this section. The commission shall give strong
42 consideration to the recommendations of the advisory committee and public testimony in developing
43 its report.

44 “(2)(a) The commission shall present its findings and recommendations in a report to the Gov-
45 ernor and the appropriate interim legislative committees on or before April 1, 1994. The report shall

1 include, in addition to at least two medical technology assessments, a determination of the supply
2 and distribution of medical technology and associated services that are required to meet the need
3 for medical technology in the five years following the completion of the assessment.

4 “(b) The report also shall identify strategies and contain recommendations:

5 “(A) Regarding the program’s implementation, including which agency should implement the
6 program;

7 “(B) To promote compliance with the program regarding the introduction, diffusion and utiliza-
8 tion of those medical technologies assessed;

9 “(C) Regarding whether the state should have a regulatory function and, if so, which agency
10 should carry out that function; and

11 “(D) Regarding the collection, storage and dissemination of data required for a technology as-
12 sessment program.

13 “(3) To insure that confidentiality is maintained, no identification of a patient or a person li-
14 censed to provide health services shall be included with the data submitted under this section, and
15 the commission shall release such data only in aggregate statistical form. All findings and conclu-
16 sions, interviews, reports, studies, communications and statements procured by or furnished to the
17 commission in connection with obtaining the data necessary to perform its functions shall be confi-
18 dential pursuant to [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011 Act.**

19 “(4) All data and information collected, analyzed and summarized by professional and trade as-
20 sociations conducting quality assurance and improvement programs shall be considered confidential
21 and shall not be admissible in any legal proceeding or used to create a legal standard of care.
22 However, such data and information may be submitted to the commission on request and shall re-
23 main confidential and inadmissible.

24 “**SECTION 64.** ORS 453.307 is amended to read:

25 “453.307. As used in ORS 453.307 to 453.414:

26 “(1) ‘Community right to know regulatory program’ or ‘local program’ means any law, rule, or-
27 dinance, regulation or charter amendment established, enforced or enacted by a local government
28 that requires an employer to collect or report information relating to the use, storage, release,
29 possession or composition of hazardous substances and toxic substances if a primary intent of the
30 law, rule, ordinance, regulation or charter amendment is the public distribution of the information.

31 “(2) ‘Emergency service personnel’ includes those entities providing emergency services as de-
32 fined in ORS 401.025.

33 “(3) ‘Employer’ means:

34 “(a) Any person operating a facility that is included in one or more of the 21 standard industrial
35 classification categories in Appendix B of the Natural Resources Defense Council v. Train Consent
36 Decree of June 8, 1976 (8 E.R.C. 2120); or

37 “(b) Any person operating a facility designated by the State Fire Marshal.

38 “(4) ‘Fire district’ means any agency having responsibility for providing fire protection services.

39 “(5) ‘Hazardous substance’ means:

40 “(a) Any substance designated as hazardous by the Director of the Department of Consumer and
41 Business Services or by the State Fire Marshal;

42 “(b) Any substance for which a material safety data sheet is required by the Director of the
43 Department of Consumer and Business Services under ORS 654.035 and which appears on the list
44 of Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment
45 by the American Conference of Governmental Industrial Hygienists; or

1 “(c) Radioactive waste and material as defined in ORS 469.300 and radioactive substance as
2 defined in ORS 453.005.

3 “(6) ‘Health professional’ means a physician as defined in ORS 677.010, registered nurse, indus-
4 trial hygienist, toxicologist, epidemiologist or emergency medical technician.

5 “(7) ‘Law enforcement agency’ has the meaning given that term in ORS 181.010.

6 “(8) ‘Local government’ means a city, town, county, regional authority or other political subdi-
7 vision of this state.

8 “(9) ‘Person’ includes individuals, corporations, associations, firms, partnerships, joint stock
9 companies, public and municipal corporations, political subdivisions, the state and any agency
10 thereof, and the federal government and any agency thereof.

11 “(10) ‘Trade secret’ has the meaning given that term in [ORS 192.501 (2)] **section 14 (1)(a) of**
12 **this 2011 Act.**

13 “**SECTION 65.** ORS 453.332 is amended to read:

14 “453.332. (1) An employer responding to a request under ORS 453.317 may withhold the specific
15 hazardous substance identity, including the chemical name and any other specific identification of
16 a hazardous substance, if:

17 “(a) Upon a showing satisfactory to the State Fire Marshal, the records, reports or information,
18 or particular parts thereof, if made public, would divulge product identities, methods or processes
19 and are entitled to protection as a trade secret under [ORS 192.501] **section 14 (1)(a) of this 2011**
20 **Act;** and

21 “(b) Other information provided by the employer describes the properties, quantities stored and
22 used and effects of the hazardous substance.

23 “(2) Under no circumstances shall this section be construed to require the disclosure of infor-
24 mation about a process or percentage of mixture that is a trade secret.

25 “(3) A claim of trade secret by the employer, if the claim is substantiated by the Department
26 of Consumer and Business Services or any other agency, may be recognized by the State Fire Mar-
27 shal as sufficient for purposes of trade secret protection under ORS 453.307 to 453.414 and 476.030.

28 “(4) Site specific information regarding the exact amount and location of a hazardous substance
29 provided to or obtained by the State Fire Marshal or by an agency identified in ORS 453.322 shall
30 be treated by the State Fire Marshal or the agency as confidential.

31 “(5) Any claim of trade secret by an employer pursuant to this section must be made at the time
32 the employer provides the information to the State Fire Marshal.

33 “**SECTION 66.** ORS 456.623 is amended to read:

34 “456.623. (1) The Housing and Community Services Department shall establish a registry system
35 for persons requesting to be notified when department-proposed funding awards are contemplated for
36 multifamily housing projects.

37 “(2) Any person may register with the department to receive the notification described in sub-
38 section (1) of this section. A person may request notification for multifamily housing projects on a
39 statewide basis or may limit the request to projects within specific areas of the state as identified
40 by the department. The department may charge a reasonable fee for the registration.

41 “(3) If the department proposes funding for a multifamily housing project, the department shall
42 send written notice of the funding proposal to all persons who are at that time registered to receive
43 the notice under this section. The department may send notice to persons the department believes
44 may be interested but who are not registered to receive notice. The department shall not proceed
45 with awarding funding for a multifamily housing project prior to the 30th day after the sending of

1 notice to all persons entitled under this subsection to notice of the funding proposal.

2 “(4) Notice sent under this section shall be limited to stating the deadline for filing comments
3 and the type of housing, number of units, sponsor and location of the proposed project. The notice
4 shall not include any information made exempt from public disclosure under [ORS 192.502 (24)]
5 **section 14 (2)(e) of this 2011 Act.**

6 “(5) During the period after the department proposes funding for a multifamily housing project
7 and prior to the department proceeding with awarding the funding, any interested person may file
8 comments regarding the project with the department.

9 “(6) At the discretion of the Director of the Housing and Community Services Department, the
10 department may conduct a market study or take other actions in response to comments filed in re-
11 gard to multifamily housing projects proposed for funding.

12 “(7) Subsections (3), (5) and (6) of this section apply only to multifamily housing project funding
13 for construction, acquisition or rehabilitation loans, grants or tax program awards that otherwise
14 do not include an independently prepared, project-specific market study as part of the department
15 review, approval or underwriting process.

16 “(8) As used in this section, ‘housing project’ has the meaning given that term in ORS 456.065.

17 “**SECTION 67.** ORS 465.015 is amended to read:

18 “465.015. (1) Except as provided in subsection (2) of this section, a person shall, within 120 days
19 after notification in writing by the Department of Environmental Quality that the person meets the
20 definition of a toxics user, complete a toxics use reduction and hazardous waste reduction plan. At
21 a minimum, a plan shall include:

22 “(a) A written policy articulating organizational support for the toxics use reduction and haz-
23 ardous waste reduction plan and a commitment by the organization to implement plan goals.

24 “(b) A description of its scope and objectives, including the evaluation of technologies, proce-
25 dures and personnel training programs to ensure unnecessary toxic substances are not used and
26 unnecessary waste is not generated.

27 “(c) Internal analysis and periodic assessment of individual processes for toxics use and haz-
28 ardous waste generation.

29 “(d) Identification of opportunities to reduce or eliminate toxics use and hazardous waste gen-
30 eration.

31 “(e) Employee awareness and training programs that involve employees in toxics use reduction
32 and hazardous waste reduction planning and implementation.

33 “(f) Institutionalization of the plan by incorporating the plan into management practices and
34 procedures.

35 “(2) A person is not required to complete a plan if the person has implemented an environmental
36 management system, as defined in ORS 468.172.

37 “(3) A toxics user shall incorporate into the plan and associated decision-making process, the
38 costs of using toxic substances and generating hazardous waste. The costs may represent, among
39 other things, the costs of management, liability insurance, regulatory compliance and oversight.

40 “(4) As part of each plan, a toxics user shall evaluate technically and economically practicable
41 toxics use reduction and hazardous waste reduction opportunities for:

42 “(a) Any toxic substance for which the toxics user reports as a large user; and

43 “(b) Any hazardous waste representing 10 percent or more by weight of the cumulative hazard-
44 ous waste stream generated per year.

45 “(5) A toxics user shall explain the rationale for each toxics use reduction and waste reduction

1 opportunity specified in the plan, including any impediments, such as technical or economic barriers,
2 to toxics use reduction and hazardous waste reduction.

3 “(6) A toxics use reduction and hazardous waste reduction plan developed under this section or
4 the documentation for an environmental management system shall be retained at the facility. To
5 the extent that a plan or system may be considered a public record under ORS 192.410, the infor-
6 mation contained in the plan or system is confidential and is exempt from public disclosure pursuant
7 to [ORS 192.502] **sections 11 to 21 of this 2011 Act.**

8 “(7) It is the policy of this state that plans developed under this section be kept current and that
9 the plans reflect changes in toxics use over time. In furtherance of this policy, a toxics user may
10 update its plan or modify its environmental management system to reflect any changes.

11 “**SECTION 68.** ORS 466.800 is amended to read:

12 “466.800. (1) Except as provided in subsection (2) of this section, any records, reports or infor-
13 mation obtained from any persons under ORS 466.765 and 466.805 shall be made available for public
14 inspection and copying during the regular office hours of the Department of Environmental Quality
15 at the expense of any person requesting copies.

16 “(2) Unless classified by the director as confidential, any records, reports or information ob-
17 tained under ORS 466.706 to 466.882 and 466.994 shall be available to the public. Upon a showing
18 satisfactory to the director by any person that records, reports or information, or particular parts
19 thereof, if made public, would divulge methods, processes or information entitled to protection as
20 trade secrets under [ORS 192.501 to 192.505] **section 14 (1)(a) of this 2011 Act**, the director shall
21 classify as confidential such record, report or information, or particular part thereof. However, such
22 record, report or information may be disclosed to any other officer, medical or public safety em-
23 ployee or authorized representative of the state concerned with carrying out ORS 466.706 to 466.882
24 and 466.994 or when relevant in any proceeding under ORS 466.706 to 466.882 and 466.994.

25 “(3) Any record, report or information obtained or used by the department or the Environmental
26 Quality Commission in administering the statewide underground storage tank program under ORS
27 466.706 to 466.882 and 466.994 shall be available to the United States Environmental Protection
28 Agency upon request. If the record, report or information has been submitted to the state under a
29 claim of confidentiality, the state shall make that claim of confidentiality to the Environmental
30 Protection Agency for the requested record, report or information. The federal agency shall treat
31 the record, report or information subject to the confidentiality claim as confidential in accordance
32 with applicable federal law.

33 “**SECTION 69.** ORS 469.030 is amended to read:

34 “469.030. (1) There is created the State Department of Energy.

35 “(2) The State Department of Energy shall:

36 “(a) Be the central repository within the state government for the collection of data on energy
37 resources;

38 “(b) Endeavor to utilize all public and private sources to inform and educate the public about
39 energy problems and ways in which the public can conserve energy resources;

40 “(c) Engage in research, but whenever possible, contract with appropriate public or private
41 agencies and dispense funds for research projects and other services related to energy resources,
42 except that the State Department of Energy shall endeavor to avoid duplication of research whether
43 completed or in progress;

44 “(d) Qualify for, accept and disburse or utilize any private or federal moneys or services avail-
45 able for the administration of ORS 176.820, [192.501 to 192.505,] 192.690, 469.010 to 469.225, 469.300

1 to 469.563, 469.990, 757.710 and 757.720;

2 “(e) Administer federal and state energy allocation and conservation programs and energy re-
3 search and development programs and apply for and receive available funds therefor;

4 “(f) Be a clearinghouse for energy research to which all agencies shall send information on all
5 energy related research;

6 “(g) Prepare contingent energy programs to include all forms of energy not otherwise provided
7 pursuant to ORS 757.710 and 757.720;

8 “(h) Maintain an inventory of energy research projects in Oregon and the results thereof;

9 “(i) Collect, compile and analyze energy statistics, data and information;

10 “(j) Contract with public and private agencies for energy activities consistent with ORS 469.010
11 and this section; and

12 “(k) Upon request of the governing body of any affected jurisdiction, coordinate a public review
13 of a proposed transmission line according to the provisions of ORS 469.442.

14 “**SECTION 70.** ORS 469.080 is amended to read:

15 “469.080. (1) The Director of the State Department of Energy may obtain all necessary infor-
16 mation from producers, suppliers and consumers of energy resources within Oregon, and from poli-
17 tical subdivisions in this state, as necessary to carry out ORS 176.820, [192.501 to 192.505,] 192.690,
18 469.010 to 469.225, 469.300 to 469.563, 469.990, 469.992, 757.710 and 757.720. Such information may
19 include, but not be limited to:

20 “(a) Sales volume;

21 “(b) Forecasts of energy resource requirements;

22 “(c) Inventory of energy resources; and

23 “(d) Local distribution patterns of information under paragraphs (a) to (c) of this subsection.

24 “(2) In obtaining information under subsection (1) of this section, the director, with the written
25 consent of the Governor, may subpoena witnesses, material and relevant books, papers, accounts,
26 records and memoranda, administer oaths, and may cause the depositions of persons residing within
27 or without Oregon to be taken in the manner prescribed for depositions in civil actions in circuit
28 courts, to obtain information relevant to energy resources.

29 “(3) In obtaining information under this section, the director:

30 “(a) Shall avoid eliciting information already furnished by a person or political subdivision in
31 this state to a federal, state or local regulatory authority that is available to the director for such
32 study; and

33 “(b) Shall cause reporting procedures, including forms, to conform to existing requirements of
34 federal, state and local regulatory authorities.

35 “(4) Any person who is served with a subpoena to give testimony orally or in writing or to
36 produce books, papers, correspondence, memoranda, agreements or the documents or records as
37 provided in ORS 176.820, [192.501 to 192.505] **sections 11 to 21 of this 2011 Act**, 192.690, 469.010
38 to 469.225, 469.300 to 469.563, 469.990, 469.992, 757.710 and 757.720, may apply to any circuit court
39 in Oregon for protection against abuse or hardship in the manner provided in ORCP 36 C.

40 “**SECTION 71.** ORS 469.410 is amended to read:

41 “469.410. (1) Any applicant for a site certificate for an energy facility shall be deemed to have
42 met all the requirements of ORS 176.820, [192.501 to 192.505,] 192.690, 469.010 to 469.225, 469.300 to
43 469.563, 469.990, 757.710 and 757.720 relating to eligibility for a site certificate and a site certificate
44 shall be issued by the Energy Facility Siting Council for:

45 “(a) Any transmission lines for which application has been filed with the federal government and

1 the Public Utility Commission of Oregon prior to July 2, 1975; and

2 “(b) Any energy facility under construction on July 2, 1975.

3 “(2) Each applicant for a site certificate under this section shall pay the fees required by ORS
4 469.421 (2) to (9), if applicable, and shall execute a site certificate in which the applicant agrees:

5 “(a) To abide by the conditions of all licenses, permits and certificates required by the State of
6 Oregon or any subdivision in the state to operate the energy facility and issued prior to July 2, 1975;
7 and

8 “(b) On and after July 2, 1975, to abide by the rules of the Director of the State Department of
9 Energy adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to ORS
10 469.300 to 469.563, 469.590 to 469.619 and 469.930.

11 “(3) The council has continuing authority over the site for which the site certificate is issued
12 and may inspect, or direct the State Department of Energy to inspect, or request another state
13 agency or local government to inspect, the site at any time in order to ensure that the facility is
14 being operated consistently with the terms and conditions of the site certificate and any applicable
15 health or safety standards.

16 “(4) The council shall establish programs for monitoring the environmental and ecological ef-
17 fects of the operation and the decommissioning of energy facilities subject to site certificates issued
18 prior to July 2, 1975, to ensure continued compliance with the terms and conditions of the site cer-
19 tificate and any applicable health or safety standards.

20 “(5) Site certificates executed by the Governor under ORS 469.400 (1991 Edition) prior to July
21 2, 1975, shall bind successor agencies created hereunder in accordance with the terms of such site
22 certificates. Any holder of a site certificate issued prior to July 2, 1975, shall abide by the rules of
23 the director adopted pursuant to ORS 469.040 (1)(d) and rules of the council adopted pursuant to
24 ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992.

25 “**SECTION 72.** ORS 469.560 is amended to read:

26 “469.560. (1) Except as provided in subsection (2) of this section and [*ORS 192.501 to 192.505*]
27 **sections 11 to 21 of this 2011 Act**, any information filed or submitted pursuant to ORS 469.300 to
28 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be made available for public inspection and
29 copying during regular office hours of the State Department of Energy at the expense of any person
30 requesting copies.

31 “(2) Any information, other than that relating to the public safety, relating to secret process,
32 device, or method of manufacturing or production obtained in the course of inspection, investigation
33 or activities under ORS 469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992 shall be kept
34 confidential and shall not be made a part of public record of any hearing.

35 “**SECTION 73.** ORS 476.090 is amended to read:

36 “476.090. (1) The State Fire Marshal shall keep a record of all fires occurring in this state and
37 of all facts concerning the same, including statistics as to the extent of such fires and the damage
38 caused, whether such losses were covered by insurance, and if so, in what amount. All such records
39 shall be public, except any testimony, information or other evidence taken in an investigation under
40 ORS 476.010 to 476.090, 476.155 to 476.170, 476.210 to 476.270 and 479.180, which shall be considered
41 investigatory information as described in [*ORS 192.501*] **sections 11 and 12 of this 2011 Act**.

42 “(2) This section [*shall*] **does** not apply to forestlands under the jurisdiction of the State
43 Forester.

44 “**SECTION 74.** ORS 520.027 is amended to read:

45 “520.027. (1) A person may not drill an information hole or a hole drilled as part of a seismic

1 program without first applying for approval from the State Department of Geology and Mineral In-
2 dustries and paying the fee established in ORS 520.017. The application must be submitted on a form
3 provided by the department and must include all information requested by the department.

4 “(2) A person issued an approval under this section shall comply with all terms of the
5 department’s approval and any other applicable law or rule. The department may not require the
6 person receiving approval under this section to provide information from seismic programs. The de-
7 partment may require the submittal of information from information holes, but the information is a
8 trade secret under [ORS 192.501] **section 14 (2)(a) of this 2011 Act** and is not subject to public
9 disclosure under ORS 192.410 to 192.505.

10 “**SECTION 75.** ORS 520.097 is amended to read:

11 “520.097. (1) For a period of two years from the date of abandonment or completion of a well,
12 all well logs and records and well reports submitted to the State Department of Geology and Min-
13 eral Industries are trade secrets under [ORS 192.501] **section 14 (1)(a) of this 2011 Act** and are
14 not subject to public disclosure under ORS 192.410 to 192.505, and all drill cuttings and cores may
15 not be disclosed to the public unless such protection is waived by the permittee or disclosure is
16 required by a court order.

17 “(2) The department may extend the period under subsection (1) of this section up to an addi-
18 tional five years on the request of the permittee or the permittee’s successor in interest.

19 “**SECTION 76.** ORS 522.365 is amended to read:

20 “522.365. (1) Each operator of any geothermal well or the designated agent of the operator shall
21 file with the State Department of Geology and Mineral Industries a copy of the log, history and core
22 record, or any portion thereof, promptly upon completion, or upon the written request of the de-
23 partment at any time after the commencement of the work of drilling any geothermal well, and upon
24 plugging and decommissioning or upon suspension of operations for a period of at least six months.

25 “(2) For a period of four years after the receipt of any log, history, core record, or any portion
26 thereof, such record shall be exempt from disclosure as a trade secret [pursuant to ORS 192.501]
27 **under section 14 (1)(a) of this 2011 Act** unless the operator gives approval to release the data.

28 “**SECTION 77.** ORS 526.280 is amended to read:

29 “526.280. In furtherance of the policy established in ORS 526.277, the State Forester shall:

30 “(1) Establish a policy of active and inclusive communication with the federal government,
31 public bodies as defined in ORS 174.109, residents of Oregon and interested parties regarding the
32 utilization of woody biomass produced through forest health restoration. The State Forester shall
33 actively utilize the statutory provisions of the National Forest Management Act of 1976, the Forest
34 and Rangeland Renewable Resources Planning Act of 1974, the National Environmental Policy Act
35 of 1969, the Federal Land Policy and Management Act of 1976 and the Healthy Forests Restoration
36 Act of 2003 that allow the state to participate in federal policy development in a manner that ex-
37 presses the policy established in ORS 526.277.

38 “(2) Promote public involvement in the identification of the areas of interface between urban
39 lands and forestlands that pose the highest potential to threaten lives and private property.

40 “(3) Solicit public comment on the location of biomass-based energy projects and conversion fa-
41 cilities.

42 “(4) Promote public understanding, through education and outreach, of forest conditions, forest
43 management options, the potential benefits and potential consequences of woody biomass utilization,
44 the quality and quantity of woody biomass on federal lands and the potential for woody biomass
45 utilization to assist in reducing wildfire risk and in enhancing forest health, diversity and resilience.

1 The State Forestry Department may coordinate with the State Department of Energy, the Oregon
2 Business Development Department, Oregon State University, the State Department of Fish and
3 Wildlife, the Department of Environmental Quality and other entities in any education and outreach
4 performed pursuant to this subsection.

5 “(5) Allow the State Forestry Department to conduct inventories of the types of woody biomass
6 available and to serve as an information resource for persons seeking to utilize woody biomass for
7 energy development. Notwithstanding [ORS 192.501] **sections 11 to 21 of this 2011 Act**, reports on
8 any inventories of biomass conducted by the department shall be made available for public in-
9 spection.

10 “(6) Promote public understanding that woody biomass utilization may be an effective tool for
11 restoration of forest health and for economic development in rural communities.

12 “(7) Develop and apply, with advice from the forestry program at Oregon State University, the
13 State Department of Fish and Wildlife, the Department of Environmental Quality and other sources,
14 the best available scientific knowledge and technologies pertaining to forest and wildlife habitat
15 restoration and woody biomass utilization when developing rules under ORS 527.630.

16 “(8) Seek opportunities to provide a source of woody biomass from federal, tribal, state and
17 private forests.

18 “(9) Prepare a report every three years utilizing, to the greatest extent practicable, data col-
19 lected from state and federal sources that specify the effect of woody biomass collection and con-
20 version on the plant and wildlife resources and on the air and water quality of this state. The report
21 shall identify any changes that the State Forester determines are necessary to encourage woody
22 biomass collection and conversion and to avoid negative effects on the environment from woody
23 biomass collection and conversion. The State Forester shall submit the report to the Governor and
24 to an appropriate legislative interim committee with jurisdiction over forestry issues.

25 “**SECTION 78.** ORS 656.702 is amended to read:

26 “656.702. (1)(a) The records of the State Accident Insurance Fund Corporation are subject to
27 ORS 192.410 to 192.505.

28 “(b) Notwithstanding [ORS 192.502] **sections 11 to 21 of this 2011 Act**, the State Accident In-
29 surance Fund Corporation shall make the accident experience records of the corporation available
30 to a bona fide rating organization to assist in making workers’ compensation rates. Costs involved
31 in making the records available shall be borne by the rating organization. Accident experience re-
32 cords of carrier-insured employers shall also be available on the same terms to assist in making such
33 rates.

34 “(2) Disclosure of workers’ compensation claim records of the Department of Consumer and
35 Business Services is governed by ORS [192.502 (20)] **section 14 (2)(d) of this 2011 Act**.

36 “**SECTION 79.** ORS 657.732 is amended to read:

37 “657.732. (1) As used in this section, ‘participating state agency or organization’ means:

38 “(a) The Employment Department;

39 “(b) Divisions and offices within the Department of Human Services that have been approved
40 by the Director of the Employment Department, in consultation with the Education and Workforce
41 Policy Advisor, to participate in the Interagency Shared Information System;

42 “(c) The Department of Education;

43 “(d) The Oregon University System;

44 “(e) The Department of Community Colleges and Workforce Development; and

45 “(f) Other state agencies, other governmental entities or private organizations that have applied

1 to be participating state agencies or organizations and have been approved by the Director of the
2 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
3 ticipate in the Interagency Shared Information System.

4 “(2) There is established the Interagency Shared Information System. The purpose of the system
5 is to collect, analyze and share information for the development of statistical and demographic data
6 to facilitate the creation of strategies for the purpose of improving the education, training and em-
7 ployment programs related to enhancing Oregon’s workforce system. The system shall share aggre-
8 gate information with a participating state agency or organization to allow the agency or
9 organization to develop policy, evaluate policy and plan and measure performance for the purpose
10 of improving the education, training and employment programs related to enhancing Oregon’s
11 workforce system.

12 “(3) The Director of the Employment Department shall administer and, in consultation with the
13 Education and Workforce Policy Advisor, shall oversee the development of the Interagency Shared
14 Information System. Participating state agencies or organizations shall enter into an interagency or
15 other applicable agreement with the Director of the Employment Department, as administrator of
16 the system, that:

17 “(a) Establishes protocols for the collection and sharing of data in the system;

18 “(b) Establishes safeguards for protecting the confidentiality of data in the system;

19 “(c) Includes provisions regarding informed consent for sharing information obtained from indi-
20 viduals; and

21 “(d) Provides for the sharing of costs for designing and maintaining the system.

22 “(4) Every participating state agency or organization shall provide information to the Inter-
23 agency Shared Information System. Information shall be provided in a format that encodes identify-
24 ing data, including the client’s Social Security number, using a formula unique to the participating
25 state agency or organization that shall not be disclosed to the system.

26 “(5) In disclosing Social Security numbers to the Interagency Shared Information System under
27 subsection (4) of this section, every participating state agency or organization shall comply with any
28 state and federal laws that govern the collection and use of Social Security numbers by a partic-
29 ipating state agency or organization and any additional requirements specified by the director, in
30 consultation with the Education and Workforce Policy Advisor, that are included in the agreement
31 entered into under subsection (3) of this section.

32 “(6) The information in the Interagency Shared Information System is not a public record for
33 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
34 mitted to the system and the information received from the system is a public record, and the
35 custodian of such information is the participating state agency or organization that submits or re-
36 ceives the information. If the participating state agency or organization receiving the information
37 is not a public body, as defined in ORS 192.410, the Employment Department shall keep a copy of
38 the system information sent to that entity and shall be the custodian of that copy for purposes of
39 ORS 192.410 to 192.505. As custodian, the Employment Department shall limit the disclosure of, or
40 refuse to disclose, aggregate or summary level information when a small number of aggregated re-
41 cords or some other factor creates a reasonable risk that the identity of individuals may be discov-
42 ered or disclosed. The department shall refer all other requests for disclosure of system information
43 to the public body that is the custodian of the information.

44 “(7) The Employment Department may charge a reasonable fee pursuant to ORS 192.440 for the
45 disclosure of reports to individuals or state agencies, governmental entities or private organizations

1 that submit data to the system and are not participating state agencies or organizations.

2 “(8) If a participating state agency or organization prepares or acquires a record that is confi-
3 dential under federal or state law, including [ORS 192.502 (2)] **section 13 (1) of this 2011 Act**, the
4 participating state agency or organization does not violate state confidentiality laws by providing
5 the information described in this section to the Interagency Shared Information System.
6 Notwithstanding the provisions of ORS 279C.815 (4), 279C.850 (3), 657.665 and 660.339, the Bureau
7 of Labor and Industries, the Department of Community Colleges and Workforce Development and
8 the Employment Department are authorized to provide information to the Interagency Shared In-
9 formation System.

10 “(9) Notwithstanding the provisions of ORS 192.410 to 192.505, a participating state agency or
11 organization shall not allow public access to information received from the Interagency Shared In-
12 formation System that identifies a particular individual unless required by law. Any participating
13 state agency or organization shall limit the disclosure of, or refuse to disclose, aggregate or sum-
14 mary level information when a small number of aggregated records or some other factor creates a
15 reasonable risk that the identity of individuals may be discovered or disclosed.

16 “(10) Any individual who, without proper authority, discloses confidential information under this
17 section may be disqualified from holding any appointment or employment with the State of Oregon.
18 The Employment Department shall adopt by rule procedures to prevent disclosure of confidential
19 information submitted to the Interagency Shared Information System.

20 “(11) Notwithstanding subsection (4) of this section, participating state agencies or organizations
21 may not provide new information to the Interagency Shared Information System after December 31,
22 2003. Information in the system on and after January 1, 2004, may be accessed by participating state
23 agencies or organizations in accordance with this section, applicable rules adopted by the Director
24 of the Employment Department and any agreements entered into under subsection (3) of this section.

25 “**SECTION 80.** ORS 657.734 is amended to read:

26 “657.734. (1) As used in this section:

27 “(a) ‘Public body’ has the meaning given that term in ORS 192.410.

28 “(b) ‘System participant’ means:

29 “(A) Mandatory partners under the federal Workforce Investment Act of 1998 (enacted as P.L.
30 105-220 and codified as 29 U.S.C. 2801 et seq.) and other one-stop system partners, which may include
31 public bodies and private organizations; and

32 “(B) Public bodies and private organizations that have been approved by the Director of the
33 Employment Department, in consultation with the Education and Workforce Policy Advisor, to par-
34 ticipate in the Performance Reporting Information System.

35 “(2) There is established the Performance Reporting Information System for the purpose of col-
36 lecting, analyzing and sharing statistical and demographic data for the development and reporting
37 of workforce system performance measures.

38 “(3) The Performance Reporting Information System is intended to share the data described in
39 subsection (2) of this section, by agreement, with all system participants. The Performance Reporting
40 Information System may not contain data submitted exclusively for use in the Interagency Shared
41 Information System.

42 “(4) The Director of the Employment Department shall administer and, in consultation with the
43 Education and Workforce Policy Advisor, oversee the development of the Performance Reporting
44 Information System. System participants shall be designated as participants in the system by rule
45 of the Employment Department, in consultation with the Education and Workforce Policy Advisor.

1 A system participant shall enter into an interagency or other applicable agreement with the director
2 that:

3 “(a) Establishes protocols for the collection and sharing of data in the system;

4 “(b) Establishes safeguards for protecting the confidentiality of data in the system;

5 “(c) Includes provisions regarding informed consent for sharing information obtained from indi-
6 viduals; and

7 “(d) Provides for the sharing of costs for developing and maintaining the system.

8 “(5)(a) All individual record information in the Performance Reporting Information System is
9 confidential and may not be disclosed as a public record under the provisions of ORS 192.410 to
10 192.505. As administrator of the system, the director may view all data or individual record infor-
11 mation in the system. System participants may not allow public access to information received from
12 the system that identifies a particular individual unless required by law. System participants shall
13 limit the disclosure of, or refuse to disclose, aggregate or summary level information when a small
14 number of aggregated records or some other factor creates a reasonable risk that the identity of
15 individuals may be discovered or disclosed.

16 “(b) System participants shall provide information in a format that encodes identifying data, in-
17 cluding the client’s Social Security number, using a formula unique to the system participant. In
18 disclosing Social Security numbers to the system, system participants shall comply with any state
19 and federal laws that govern the collection and use of Social Security numbers by the system par-
20 ticipant and any additional requirements specified by the director, in consultation with the Educa-
21 tion and Workforce Policy Advisor, that are included in the agreement entered into under subsection
22 (4) of this section.

23 “(6) The information in the Performance Reporting Information System is not a public record for
24 purposes of ORS 192.410 to 192.505. For purposes of ORS 192.410 to 192.505, the information sub-
25 mitted to the system and the information received from the system is a public record, and the
26 custodian of such information is the system participant that submits or receives the information. If
27 the system participant receiving the information is not a public body, the department shall keep a
28 copy of the system information sent to that system participant and shall be the custodian of that
29 copy for purposes of ORS 192.410 to 192.505. As custodian, the department shall limit the disclosure
30 of, or refuse to disclose, aggregate or summary level information when a small number of aggregated
31 records or some other factor creates a reasonable risk that the identity of individuals may be dis-
32 covered or disclosed. The department shall refer all other requests for disclosure of system infor-
33 mation to the public body that is the custodian of the information.

34 “(7) The department may charge a reasonable fee under ORS 192.440 for the disclosure of re-
35 ports containing only aggregate data to individuals, public bodies or private organizations.

36 “(8) If a system participant prepares or acquires a record that is confidential under federal or
37 state law, including [ORS 192.502 (2)] **section 13 (1) of this 2011 Act**, the system participant does
38 not violate state confidentiality laws by providing the information described in this section to the
39 Performance Reporting Information System. Notwithstanding the provisions of ORS 279C.815 (4),
40 279C.850 (3), 657.665 and 660.339, the Bureau of Labor and Industries, the Department of Community
41 Colleges and Workforce Development and the Employment Department are authorized to provide
42 information to the system.

43 “(9) Any individual who, without proper authority, discloses confidential information under this
44 section may be disqualified from holding any appointment or employment with the State of Oregon.
45 The department shall adopt by rule procedures to prevent disclosure of confidential information

1 submitted to the Performance Reporting Information System.

2 “**SECTION 81.** ORS 659A.209 is amended to read:

3 “659A.209. ORS 659A.200 to 659A.224 are not intended to:

4 “(1) Allow disclosure of records exempt from disclosure except as provided in [ORS 192.501 to
5 192.505] **sections 11 to 21 of this 2011 Act.**

6 “(2) Prevent public employers from prohibiting employee disclosure of information of an advisory
7 nature to the extent that it covers other than purely factual materials and is preliminary to any
8 final agency determination of policy or action.

9 “**SECTION 82.** ORS 671.338 is amended to read:

10 “671.338. (1) Notwithstanding ORS 192.420:

11 “(a) In addition to any exemption from disclosure provided under [ORS 192.501 (4)] **section 19**
12 **(1)(b) of this 2011 Act**, State Landscape Architect Board examination materials, file records of ex-
13 amination grading and performance, transcripts from educational institutions, letters of inquiry,
14 letters of reference and board inquiry forms concerning applicants or registrants are confidential
15 and may not be disclosed except as provided in paragraph (b) of this subsection or subsection (2)
16 of this section.

17 “(b) Investigatory information developed or obtained by the board is confidential and not subject
18 to disclosure by the board unless a notice is issued for a contested case hearing or the matter in-
19 vestigated is finally resolved by board action or a consent order. The board shall notify the regis-
20 trant of the investigation. The public may obtain information confirming that an investigation is
21 being conducted and describing the general nature of the matter being investigated.

22 “(2) The board may appoint an advisory committee to conduct an investigation described under
23 subsection (1)(b) of this section on behalf of the board. Investigatory information developed or ob-
24 tained by an advisory committee is confidential unless a notice is issued for a contested case hearing
25 or the matter investigated is finally resolved by board action or a consent order. The board may
26 discuss in open session matters that are being reviewed by an advisory committee, but may not
27 disclose confidential information into the public record.

28 “(3) Notwithstanding any confidentiality established under subsection (1) or (2) of this section,
29 if the board or an advisory committee meets in executive session to discuss an investigation, the
30 board or committee may permit other public officials and members of the press to attend the exec-
31 utive session. Notwithstanding ORS 192.610 to 192.690, the public officials and members of the press
32 attending the executive session may not disclose information discussed by the board or committee
33 during the session until the information ceases to be confidential under subsection (1) or (2) of this
34 section.

35 “**SECTION 83.** ORS 705.137 is amended to read:

36 “705.137. (1) Except as provided in subsection (3) of this section, a document, material or other
37 information that is in the possession or control of the Department of Consumer and Business Ser-
38 vices for the purpose of administering ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005 to 697.095,
39 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and ORS chapters 59, 723, 725 and 726,
40 the Bank Act and the Insurance Code and that is described in statute as confidential or as not
41 subject to disclosure is not subject to disclosure under ORS 192.410 to 192.505, is not subject to
42 subpoena and is not subject to discovery or admissible in evidence in a private civil action. The
43 Director of the Department of Consumer and Business Services may use a confidential document,
44 material or other information in administering ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005
45 to 697.095, 697.602 to 697.842, 717.200 to 717.320, 717.900 and 717.905 and ORS chapters 59, 723, 725

1 and 726, the Bank Act and the Insurance Code and in furthering a regulatory or legal action
2 brought as a part of the director's duties.

3 “(2) A document, material or other information to which subsection (1) of this section applies
4 is subject to the public officer privilege described in ORS 40.270.

5 “(3) In order to assist in the performance of the director's duties, the director may:

6 “(a) Authorize sharing a confidential document, material or other information that is subject to
7 subsection (1) of this section as appropriate among the administrative divisions and staff offices of
8 the department created under ORS 705.115 for the purpose of administering and enforcing the stat-
9 utes identified in subsection (1) of this section, in order to enable the administrative divisions and
10 staff offices to carry out the functions and responsibilities of the administrative divisions and staff
11 offices.

12 “(b) Share a document, material or other information, including a confidential document, mate-
13 rial or other information that is subject to subsection (1) of this section or that is otherwise confi-
14 dential under [*ORS 192.501 or 192.502*] **sections 11 to 21 of this 2011 Act**, with other state, federal,
15 foreign and international regulatory and law enforcement agencies and with the National Associ-
16 ation of Insurance Commissioners and affiliates or subsidiaries of the National Association of In-
17 surance Commissioners, if the recipient agrees to maintain the confidentiality of the document,
18 material or other information.

19 “(c) Receive a document, material or other information, including an otherwise confidential
20 document, material or other information, from state, federal, foreign and international regulatory
21 and law enforcement agencies and from the National Association of Insurance Commissioners and
22 affiliates or subsidiaries of the National Association of Insurance Commissioners. As provided in this
23 section, the director shall maintain the confidentiality of documents, materials or other information
24 received upon notice or with an understanding that the document, material or other information is
25 confidential or privileged under the laws of the jurisdiction that is the source of the document,
26 material or other information.

27 “(4) Disclosing a document, material or other information to the director under this section or
28 sharing a document, material or other information as authorized in subsection (3) of this section
29 does not waive an applicable privilege or claim of confidentiality in the document, material or other
30 information.

31 “(5) This section does not prohibit the director from releasing a final, adjudicated action, in-
32 cluding a suspension or revocation of a certificate of authority or a license if the action is otherwise
33 open to public inspection, to a database or other clearinghouse service maintained by the National
34 Association of Insurance Commissioners or affiliates or subsidiaries of the National Association of
35 Insurance Commissioners.

36 “**SECTION 84.** ORS 706.720 is amended to read:

37 “706.720. (1) The Director of the Department of Consumer and Business Services shall receive
38 and file in the Department of Consumer and Business Services all reports required by the Bank Act.

39 “(2) Except as provided in subsection (3) of this section and ORS 706.730, the records of the
40 Department of Consumer and Business Services pertaining to the administration of the Bank Act
41 are available for public inspection unless the director determines in a particular instance that an
42 Oregon operating institution or the directors, stockholders, officers, employees and customers of the
43 Oregon operating institution have an interest in keeping the records confidential that outweighs the
44 public interest in disclosing the records, or that the records are exempt from disclosure under [*ORS*
45 *192.501 to 192.505*] **sections 11 to 21 of this 2011 Act**. A determination by the director under this

1 subsection is subject to review under ORS 192.410 to 192.505.

2 “(3) Except as provided in subsections (4) and (5) of this section, the following records of the
3 department are exempt from disclosure or production and shall be treated as confidential as pro-
4 vided in ORS 705.137:

5 “(a) Examination reports and work papers, directives, orders and correspondence that relate to
6 examination reports.

7 “(b) Financial statements of and investigatory information concerning persons subject to inves-
8 tigation by the director under ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705.

9 “(c) Proprietary information.

10 “(d) Reviews of financial statements submitted to the director.

11 “(e) Reports filed under ORS 706.655.

12 “(f) Stockholder lists.

13 “(g) Correspondence, reports or other information obtained from or provided to the Financial
14 Crimes Enforcement Network established by order of the United States Secretary of the Treasury.

15 “(4) Notwithstanding subsection (3) of this section, the director may disclose a record that is
16 specified in this subsection and that pertains to an Oregon operating institution that has been liq-
17 uidated under ORS 711.400 to 711.615 if the director determines in a particular instance that the
18 public interest in disclosure of the record outweighs the interests of the Oregon operating institu-
19 tion or of the directors, stockholders, officers, employees or customers of the Oregon operating in-
20 stitution in keeping the record confidential. The director may not in any circumstances, however,
21 disclose a record or a portion of a record that contains proprietary information or information that
22 relates to an individual’s financial activities or affairs unless the director concludes that the activ-
23 ities or affairs were a direct and substantial contributing factor in the failure of the Oregon oper-
24 ating institution. This subsection applies to the following records of the department:

25 “(a) Examination reports and work papers, directives, orders and correspondence relating to
26 examination reports;

27 “(b) Investigatory information concerning persons subject to investigation by the director under
28 ORS 707.070, 707.080, 707.110, 707.140, 707.145, 707.155 or 707.705;

29 “(c) Reviews of financial statements; and

30 “(d) Reports filed under ORS 706.655.

31 “(5) Notwithstanding ORS 40.270, an officer of the department may be examined concerning re-
32 cords that are exempt from disclosure under subsection (2) or (3) of this section and ORS 706.730.
33 The records are subject to production if the court before which a civil or criminal action is pending
34 finds that the examination and production is essential for establishing a claim or defense. In making
35 a finding under this subsection, if the court views the records, the court shall do so in camera.

36 “(6) A civil penalty imposed by the director under the Bank Act shall become subject to public
37 inspection after the 20th day after the director imposes the civil penalty.

38 “(7) All records of the department pertaining to the condition of Oregon operating institutions
39 may be furnished to:

40 “(a) The Federal Reserve Bank and examiners from the Federal Reserve Bank.

41 “(b) The Comptroller of the Currency of the United States and national bank examiners.

42 “(c) The Federal Deposit Insurance Corporation and examiners from the Federal Deposit Insur-
43 ance Corporation.

44 “(d) The Federal Home Loan Bank of which the operating institution is a member or to which
45 the operating institution has applied for membership.

1 “(e) The State Treasurer if the Oregon operating institution is or has applied to become a de-
2 pository of public fund deposits.

3 “(f) A supervisory authority that regulates financial institutions, financial holding companies or
4 bank holding companies.

5 “(g) The respective Oregon operating institution, or the financial holding company or bank
6 holding company that controls an Oregon operating institution.

7 “(8) The director shall prescribe and furnish to interested persons the forms for all reports re-
8 quired by the Bank Act.

9 “(9) If the director is requested to disclose any record subject to this section and the record
10 contains both material that is exempt from disclosure under this section or any other provision of
11 law and material that is not exempt from disclosure, the director shall separate the exempt and
12 nonexempt material and shall disclose only the nonexempt material.

13 “**SECTION 85.** ORS 723.118 is amended to read:

14 “723.118. (1) The Director of the Department of Consumer and Business Services shall receive
15 and file in the Department of Consumer and Business Services all reports required under this
16 chapter.

17 “(2) Except as provided in subsection (3) of this section, the records of the department pertain-
18 ing to the administration of this chapter are available for public inspection unless the director de-
19 termines in a particular instance that the credit union or the directors, members, officers or
20 employees of the credit union have an interest in keeping the records confidential that outweighs
21 the public interest in disclosing the records, or that the records are exempt from disclosure under
22 [ORS 192.501 to 192.505] **sections 11 to 21 of this 2011 Act.** A determination by the director under
23 this subsection is subject to review under ORS 192.410 to 192.505.

24 “(3) Except as provided in subsections (4) and (5) of this section, the following records of the
25 department are exempt from disclosure or production and shall be treated as confidential as pro-
26 vided in ORS 705.137:

27 “(a) Examination reports and work papers, directives, orders and correspondence that relate to
28 examination reports.

29 “(b) Financial statements of and investigatory information concerning persons subject to inves-
30 tigation by the director under ORS 723.014 or 723.132.

31 “(c) Proprietary information.

32 “(d) Reviews of financial statements submitted to the director.

33 “(e) The name of a member or borrower and the amount of shares, deposits or debts of a member
34 or borrower.

35 “(f) Correspondence, reports or other information obtained from or provided to the Financial
36 Crimes Enforcement Network established by order of the United States Secretary of the Treasury.

37 “(4) Notwithstanding subsection (3) of this section and except as otherwise provided in this
38 subsection, the director may disclose a record that is specified in this subsection and that pertains
39 to a credit union that has been liquidated under ORS 723.676 if the director determines in a par-
40 ticular instance that the public interest in disclosing the record outweighs the interests of the credit
41 union or of the directors, members, officers or employees of the credit union in keeping the record
42 confidential. The director may not disclose a record or portion of a record that contains proprietary
43 information or information that relates to an individual’s financial activities or affairs unless the
44 director concludes that the activities or affairs were a direct and substantial contributing factor in
45 the failure of the credit union. This subsection applies to the following records of the department:

1 “(a) Examination reports and work papers, directives, orders and correspondence that relate to
2 examination reports.

3 “(b) Investigatory information concerning persons subject to investigation by the director under
4 ORS 723.014 or 723.132.

5 “(c) Reviews of financial statements.

6 “(d) Reports filed under ORS 723.106.

7 “(5) Notwithstanding ORS 40.270, an officer of the department may be examined concerning re-
8 cords that are exempt from disclosure under subsection (2) or (3) of this section. The records are
9 subject to production if the court before which a civil or criminal action is pending finds that the
10 examination and production is essential for establishing a claim or defense. In making a finding
11 under this subsection, if the court views the records, the court shall do so in camera.

12 “(6) All records of the department pertaining to the condition of credit unions may be furnished
13 to:

14 “(a) The National Credit Union Administration.

15 “(b) The Federal Home Loan Bank of which the credit union is a member or to which the credit
16 union has applied for membership.

17 “(c) The State Treasurer if the credit union is a depository of public fund deposits.

18 “(d) The respective credit union.

19 “(7) If the director is requested to disclose a record subject to this section and the record con-
20 tains both material that is exempt from disclosure under this section or any other provision of law
21 and material that is not exempt from disclosure, the director shall separate the exempt and nonex-
22 empt material and may disclose only the nonexempt material.

23 “**SECTION 86.** ORS 743.862 is amended to read:

24 “743.862. (1) An independent review organization shall perform the following duties when ap-
25 pointed under ORS 743.857 to review a dispute under a health benefit plan between an insurer and
26 an enrollee:

27 “(a) Decide whether the dispute is covered by the conditions established in ORS 743.857 for ex-
28 ternal review and notify the enrollee and insurer in writing of the decision. If the decision is against
29 the enrollee, the independent review organization shall notify the enrollee of the right to file a
30 complaint with or seek other assistance from the Director of the Department of Consumer and
31 Business Services and the availability of other assistance as specified by the director.

32 “(b) Appoint a reviewer or reviewers as determined appropriate by the independent review or-
33 ganization.

34 “(c) Notify the enrollee of information that the enrollee is required to provide and any additional
35 information the enrollee may provide, and when the information must be submitted.

36 “(d) Notify the insurer of additional information the independent review organization requires
37 and when the information must be submitted.

38 “(e) Decide the dispute relating to the adverse decision of the insurer under ORS 743.857 (1) and
39 issue the decision in writing.

40 “(2) A decision by an independent review organization shall be based on expert medical judg-
41 ment after consideration of the enrollee’s medical record, the recommendations of each of the
42 enrollee’s providers, relevant medical, scientific and cost-effectiveness evidence and standards of
43 medical practice in the United States. An independent review organization must make its decision
44 in accordance with the coverage described in the health benefit plan, except that the independent
45 review organization may override the insurer’s standards for medically necessary or experimental

1 or investigational treatment if the independent review organization determines that the standards
2 of the insurer are unreasonable or are inconsistent with sound medical practice.

3 “(3) When review is expedited, the independent review organization shall issue a decision not
4 later than the third day after the date on which the enrollee applies to the insurer for an expedited
5 review.

6 “(4) When a review is not expedited, the independent review organization shall issue a decision
7 not later than the 30th day after the enrollee applies to the insurer for a review.

8 “(5) An independent review organization shall file synopses of its decisions with the director
9 according to the format and other requirements established by the director. The synopses shall ex-
10 clude information that is confidential, that is otherwise exempt from disclosure under [ORS 192.501
11 and 192.502] **sections 11 to 21 of this 2011 Act** or that may otherwise allow identification of an
12 enrollee. The director shall make the synopses public.

13 “**SECTION 87.** ORS 777.795 is amended to read:

14 “777.795. (1) Except as provided in subsection (2) of this section, the written records of an export
15 trading corporation shall be public records available for inspection under ORS 192.410 to 192.505.

16 “(2) In addition to the exemptions set forth in [ORS 192.501 to 192.505] **sections 11 to 21 of this**
17 **2011 Act**, the following public records of an export trading corporation are exempt from disclosure:

18 “(a) Information consisting of financial, commercial, sales, production, cost or similar business
19 records of a private concern or enterprise which is not otherwise required to be disclosed by state
20 or federal law.

21 “(b) Trade secrets, as defined in [ORS 192.501 (2)] **section 14 (1)(a) of this 2011 Act.**

22 “**SECTION 88.** ORS 802.183 is amended to read:

23 “802.183. (1) The Department of Transportation may establish fees reasonably calculated to re-
24 imburse it for its actual cost in making personal information available to a person or government
25 agency authorized under ORS 802.179 to obtain the information. Fees established under this sub-
26 section are subject to the provisions of ORS 192.440 [(4) to (6)] **(10) to (12).**

27 “(2) The department may adopt rules specifying conditions that must be met by a person or
28 government agency requesting personal information under ORS 802.179. Such conditions may include
29 but need not be limited to:

30 “(a) Providing reasonable assurance of the identity of the requester;

31 “(b) Providing reasonable assurance of the uses to which the personal information will be put,
32 if applicable;

33 “(c) Showing that the individual whose personal information is to be disclosed has given per-
34 mission for the disclosure, if permission is required; and

35 “(d) Submitting a written request for the personal information in a form prescribed by the de-
36 partment.

37 “**SECTION 89.** ORS 802.187 is amended to read:

38 “802.187. (1) Nothing in ORS 802.175 to 802.187 authorizes disclosure by the Department of
39 Transportation of personal information that is barred from disclosure by the provisions of ORS
40 192.445 or [192.502 (2)] **section 13 (1) of this 2011 Act.**

41 “(2) Nothing in ORS 802.175 to 802.187 prohibits an individual from having access to personal
42 information about the individual that is contained in motor vehicle records.

43
44 **JUDICIAL ORDERS**
45

