

Senate Bill 540

Sponsored by Senator STARR (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires certain public officials and candidates to file quarterly statements of economic interest with Oregon Government Ethics Commission.

Becomes operative January 1, 2012.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to government ethics; creating new provisions; amending ORS 244.020, 244.060, 244.100,
3 244.110, 244.162, 244.218, 244.290 and 244.350; and declaring an emergency.

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

5 **SECTION 1.** ORS 244.100 is amended to read:

6 244.100. (1) **A public official or candidate who is required to file a statement of economic**
7 **interest under ORS 244.050 shall file with the Oregon Government Ethics Commission, ac-**
8 **cording to the schedule set forth in ORS 244.218, a statement showing for the applicable re-**
9 **porting period:**

10 (a) **All expenses with an aggregate value exceeding \$50 received by the public official**
11 **during the preceding calendar year when participating in a convention, mission, trip or other**
12 **meeting described in ORS 244.020 (6)(b)(F), including the name and address of the organiza-**
13 **tion, unit of government, tribe or corporation paying the expenses, the nature of the event**
14 **and the date and amount of the expense.**

15 (b) **All expenses with an aggregate value exceeding \$50 received by the public official**
16 **during the preceding calendar year when participating in a mission, negotiations or economic**
17 **development activities described in ORS 244.020 (6)(b)(H), including the name and address of**
18 **the person paying the expenses, the nature of the event and the date and amount of the ex-**
19 **penditure.**

20 (c) **All honoraria and other items allowed under ORS 244.042 with a value exceeding \$15**
21 **that are received by the public official, candidate or member of the household of the public**
22 **official or candidate during the preceding calendar year, the provider of each honorarium or**
23 **item and the date and time of the event for which the honorarium or item was received.**

24 (d) **The name, principal address and brief description of each source of income exceeding**
25 **an aggregate amount of \$1,000, whether or not taxable, received by the public official or**
26 **candidate, or a member of the household of the public official or candidate, during the pre-**
27 **ceding calendar year, if the source of that income is derived from an individual or business**
28 **that has a legislative or administrative interest or that has been doing business, does busi-**
29 **ness or could reasonably be expected to do business with the governmental agency of which**
30 **the public official holds, or the candidate if elected would hold, an official position or over**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **which the public official exercises, or the candidate if elected would exercise, any authority.**

2 [(1)] (2) Any organization, unit of government, tribe or corporation that provides a public official
3 with expenses with an aggregate value exceeding \$50 for an event described in ORS 244.020 (6)(b)(F)
4 shall notify the public official in writing of the amount of the expense. The organization, unit, tribe
5 or corporation shall provide the notice to the public official within 10 days after the date the ex-
6 penses are incurred.

7 [(2)] (3) Any person that provides a public official or candidate, or a member of the household
8 of the public official or candidate, with an honorarium or other item allowed under ORS 244.042 with
9 a value exceeding \$15 shall notify the public official or candidate in writing of the value of the
10 honorarium or other item. The person shall provide the notice to the public official or candidate
11 within 10 days after the date of the event for which the honorarium or other item was received.

12 **SECTION 2.** ORS 244.060 is amended to read:

13 244.060. The statement of economic interest filed under ORS 244.050 shall be on a form pre-
14 scribed by the Oregon Government Ethics Commission. The public official or candidate filing the
15 statement shall supply the information required by this section and ORS 244.090, as follows:

16 (1) The names of all positions as officer of a business and business directorships held by the
17 public official or candidate or a member of the household of the public official or candidate during
18 the preceding calendar year, and the principal address and a brief description of each business.

19 (2) All names under which the public official or candidate and members of the household of the
20 public official or candidate do business and the principal address and a brief description of each
21 business.

22 (3) The names, principal addresses and brief descriptions of the sources of income received
23 during the preceding calendar year by the public official or candidate or a member of the household
24 of the public official or candidate that produce 10 percent or more of the total annual household
25 income.

26 (4)(a) A list of all real property in which the public official or candidate or a member of the
27 household of the public official or candidate has or has had any personal, beneficial ownership in-
28 terest during the preceding calendar year, any options to purchase or sell real property, including
29 a land sales contract, and any other rights of any kind in real property located within the ge-
30 ographic boundaries of the governmental agency of which the public official holds, or the candidate
31 if elected would hold, an official position or over which the public official exercises, or the candidate
32 if elected would exercise, any authority.

33 (b) This subsection does not require the listing of the principal residence of the public official
34 or candidate.

35 [(5) *All expenses with an aggregate value exceeding \$50 received by the public official during the*
36 *preceding calendar year when participating in a convention, mission, trip or other meeting described*
37 *in ORS 244.020 (6)(b)(F), including the name and address of the organization, unit of government, tribe*
38 *or corporation paying the expenses, the nature of the event and the date and amount of the expense.*]

39 [(6) *All expenses with an aggregate value exceeding \$50 received by the public official during the*
40 *preceding calendar year when participating in a mission, negotiations or economic development activ-*
41 *ities described in ORS 244.020 (6)(b)(H), including the name and address of the person paying the ex-*
42 *penses, the nature of the event and the date and amount of the expenditure.*]

43 [(7) *All honoraria and other items allowed under ORS 244.042 with a value exceeding \$15 that are*
44 *received by the public official, candidate or member of the household of the public official or candidate*
45 *during the preceding calendar year, the provider of each honorarium or item and the date and time of*

1 *the event for which the honorarium or item was received.]*

2 *[(8) The name, principal address and brief description of each source of income exceeding an ag-*
 3 *gregate amount of \$1,000, whether or not taxable, received by the public official or candidate, or a*
 4 *member of the household of the public official or candidate, during the preceding calendar year, if the*
 5 *source of that income is derived from an individual or business that has a legislative or administrative*
 6 *interest or that has been doing business, does business or could reasonably be expected to do business*
 7 *with the governmental agency of which the public official holds, or the candidate if elected would hold,*
 8 *an official position or over which the public official exercises, or the candidate if elected would exercise,*
 9 *any authority.]*

10 **SECTION 3.** ORS 244.218 is amended to read:

11 244.218. Statements required to be filed with the Oregon Government Ethics Commission under
 12 ORS **244.100** and 244.217 shall be filed in each calendar year:

13 (1) Not later than April 15, for the accounting period beginning January 1 and ending March
 14 31;

15 (2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

16 (3) Not later than October 15, for the accounting period beginning July 1 and ending September
 17 30; and

18 (4) Not later than January 15 of the following calendar year, for the accounting period beginning
 19 October 1 and ending December 31.

20 **SECTION 4.** ORS 244.020 is amended to read:

21 244.020. As used in this chapter, unless the context requires otherwise:

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

27 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,
 28 association, organization, self-employed individual and any other legal entity operated for economic
 29 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section
 30 501(c) of the Internal Revenue Code with which a public official or a relative of the public official
 31 is associated only as a member or board director or in a nonremunerative capacity.

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

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

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

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

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

45 (4) "Candidate" means an individual for whom a declaration of candidacy, nominating petition

1 or certificate of nomination to public office has been filed or whose name is printed on a ballot or
2 is expected to be or has been presented, with the individual's consent, for nomination or election to
3 public office.

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

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

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

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

15 (b) "Gift" does not mean:

16 (A) Contributions as defined in ORS 260.005.

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

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

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

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

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

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

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

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

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

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

1 (i) In association with the review, approval, execution of documents or closing of a borrowing,
2 investment or other financial transaction, including any business agreement between state govern-
3 ment as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special govern-
4 ment body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (10) “Member of the household” means any person who resides with the public official or can-
 2 didate.

3 (11) “Planning commission” means a county planning commission created under ORS chapter 215
 4 or a city planning commission created under ORS chapter 227.

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

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

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

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

18 (13) “Public office” has the meaning given that term in ORS 260.005.

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

23 (15) “Relative” means:

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

25 (b) Any children of the public official or of the public official’s spouse;

26 (c) Any children of the candidate or of the candidate’s spouse;

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

28 (e) Siblings, spouses of siblings or parents of the candidate or of the candidate’s spouse;

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

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

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

35 (16) “Statement of economic interest” means a statement as described by ORS 244.060, [or]
 36 244.070 or **244.100**.

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

40 **SECTION 5.** ORS 244.110 is amended to read:

41 244.110. (1) Each statement of economic interest required to be filed under ORS 244.050, 244.060,
 42 244.070, [or] 244.090 or **244.100**, or by rule under ORS 244.290, and each trading statement required
 43 to be filed under ORS 244.055 shall be signed and certified as true by the person required to file it
 44 and shall contain a written declaration that the statement is made under the penalties of false
 45 swearing.

1 (2) A person may not sign and certify a statement under subsection (1) of this section if the
2 person knows that the statement contains information that is false.

3 (3) Violation of subsection (2) of this section is punishable as false swearing under ORS 162.075.

4 **SECTION 6.** ORS 244.162 is amended to read:

5 244.162. (1) A person designated by a public body as defined in ORS 174.109 shall provide in-
6 formation explaining the requirements of ORS 244.050, 244.060, 244.070, [and] 244.090 **and 244.100**
7 to each newly elected or appointed public official serving the public body who is required to file a
8 verified statement of economic interest under ORS 244.050. The information must be received by the
9 public official either at the first meeting attended by the public official or before the public official
10 takes the oath of office, whichever occurs first.

11 (2) At the time of fulfilling duties under subsection (1) of this section, the person designated by
12 the public body shall provide to each newly elected or appointed public official serving the public
13 body a copy of the statements and explanation provided to the public body under subsection (3) of
14 this section.

15 (3) The Oregon Government Ethics Commission shall provide copies of the statements described
16 in ORS 244.060, 244.070, [and] 244.090 **and 244.100** and an explanation of the requirements of the law
17 relating to the statements to each public body that is served by a public official who is required to
18 file a statement described in ORS 244.060, 244.070, [or] 244.090 **or 244.100**.

19 (4) A newly elected or appointed public official serving a public body who is not informed of the
20 filing requirements under ORS 244.050, 244.060, 244.070, [and] 244.090 **and 244.100** and provided with
21 a copy of the statements and explanation as required under this section before attending the first
22 meeting or taking the oath of office may resign that office within 90 days thereafter or before the
23 next date specified in ORS 244.050 for the filing of a statement, whichever is later, without filing a
24 verified statement of economic interest and without incurring a sanction or penalty that might oth-
25 erwise be imposed for not filing.

26 **SECTION 7.** ORS 244.290 is amended to read:

27 244.290. (1) The Oregon Government Ethics Commission shall:

28 (a) Prescribe forms for statements required by this chapter and provide the forms to persons
29 required to file the statements under this chapter or pursuant to a resolution adopted under ORS
30 244.160.

31 (b) Develop a filing, coding and cross-indexing system consistent with the purposes of this
32 chapter.

33 (c) Prepare and publish reports the commission finds are necessary.

34 (d) Make advisory opinions issued by the commission or the executive director of the commis-
35 sion available to the public at no charge on the Internet.

36 (e) Accept and file any information voluntarily supplied that exceeds the requirements of this
37 chapter.

38 (f) Make statements and other information filed with the commission available for public in-
39 spection and copying during regular office hours, and make copying facilities available at a charge
40 not to exceed actual cost.

41 (g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly
42 any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

43 (2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to
44 171.785 and 171.992 and this chapter, including rules to:

45 (a) Create a procedure under which items before the commission may be treated under a consent

1 calendar and voted on as a single item;

2 (b) Exempt a public official who is otherwise required to file a statement pursuant to ORS
3 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions
4 of the body over which the public official has jurisdiction are so few or infrequent as not to warrant
5 the public disclosure;

6 (c) Establish an administrative process whereby a person subpoenaed by the commission may
7 obtain a protective order;

8 (d) List criteria and establish a process for the commission to use prosecutorial discretion to
9 decide whether to proceed with an inquiry or investigation;

10 (e) Establish a procedure under which the commission shall conduct accuracy audits of a sample
11 of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

12 (f) Describe the application of provisions exempting items from the definition of “gift” in ORS
13 244.020;

14 (g) Specify when a continuing violation is considered a single violation or a separate and dis-
15 tinct violation for each day the violation occurs; and

16 (h) Set criteria for determining the amount of civil penalties that the commission may impose.

17 (3) The commission may adopt rules that:

18 (a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes
19 that qualify under the class exception from the definition of “potential conflict of interest” under
20 ORS 244.020;

21 (b) Require the disclosure and reporting of gifts or other compensation made to or received by
22 a public official or candidate;

23 (c) Establish criteria for cases in which information relating to notices of actual or potential
24 conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

25 (d) Allow the commission to accept the filing of a statement containing less than all of the in-
26 formation required under ORS 244.060, [and] 244.070 **and 244.100** if the public official or candidate
27 certifies on the statement that the information contained on the statement previously filed is un-
28 changed or certifies only as to any changed material.

29 (4) Not less frequently than once each calendar year, the commission shall:

30 (a) Consider adoption of rules the commission deems necessary to implement or interpret pro-
31 visions of this chapter relating to issues the commission determines are of general interest to public
32 officials or candidates or that are addressed by the commission or by commission staff on a recur-
33 ring basis; and

34 (b) Review rules previously adopted by the commission to determine whether the rules have
35 continuing applicability or whether the rules should be amended or repealed.

36 (5) The commission shall adopt by rule an electronic filing system under which statements re-
37 quired to be filed under ORS 244.050, **244.100** and 244.217 may be filed, without a fee, with the
38 commission in an electronic format. The commission shall accept statements filed under ORS
39 244.050, **244.100** and 244.217 in a format that is not electronic.

40 (6) The commission shall make statements filed under ORS 244.050, **244.100** and 244.217, includ-
41 ing statements that are not filed in an electronic format, available in a searchable format for review
42 by the public using the Internet.

43 **SECTION 8.** ORS 244.290, as amended by section 9d, chapter 877, Oregon Laws 2007, and sec-
44 tion 14, chapter 68, Oregon Laws 2009, is amended to read:

45 244.290. (1) The Oregon Government Ethics Commission shall:

1 (a) Prescribe forms for statements required by this chapter and provide the forms to persons
2 required to file the statements under this chapter or pursuant to a resolution adopted under ORS
3 244.160.

4 (b) Develop a filing, coding and cross-indexing system consistent with the purposes of this
5 chapter.

6 (c) Prepare and publish reports the commission finds are necessary.

7 (d) Make advisory opinions issued by the commission or the executive director of the commis-
8 sion available to the public at no charge on the Internet.

9 (e) Accept and file any information voluntarily supplied that exceeds the requirements of this
10 chapter.

11 (f) Make statements and other information filed with the commission available for public in-
12 spection and copying during regular office hours, and make copying facilities available at a charge
13 not to exceed actual cost.

14 (g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly
15 any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

16 (2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to
17 171.785 and 171.992 and this chapter, including rules to:

18 (a) Create a procedure under which items before the commission may be treated under a consent
19 calendar and voted on as a single item;

20 (b) Exempt a public official who is otherwise required to file a statement pursuant to ORS
21 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions
22 of the body over which the public official has jurisdiction are so few or infrequent as not to warrant
23 the public disclosure;

24 (c) Establish an administrative process whereby a person subpoenaed by the commission may
25 obtain a protective order;

26 (d) List criteria and establish a process for the commission to use prosecutorial discretion to
27 decide whether to proceed with an inquiry or investigation;

28 (e) Establish a procedure under which the commission shall conduct accuracy audits of a sample
29 of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

30 (f) Describe the application of provisions exempting items from the definition of "gift" in ORS
31 244.020;

32 (g) Specify when a continuing violation is considered a single violation or a separate and dis-
33 tinct violation for each day the violation occurs; and

34 (h) Set criteria for determining the amount of civil penalties that the commission may impose.

35 (3) The commission may adopt rules that:

36 (a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes
37 that qualify under the class exception from the definition of "potential conflict of interest" under
38 ORS 244.020;

39 (b) Require the disclosure and reporting of gifts or other compensation made to or received by
40 a public official or candidate;

41 (c) Establish criteria for cases in which information relating to notices of actual or potential
42 conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

43 (d) Allow the commission to accept the filing of a statement containing less than all of the in-
44 formation required under ORS 244.060, [and] 244.070 **and 244.100** if the public official or candidate
45 certifies on the statement that the information contained on the statement previously filed is un-

1 changed or certifies only as to any changed material.

2 (4) Not less frequently than once each calendar year, the commission shall:

3 (a) Consider adoption of rules the commission deems necessary to implement or interpret pro-
4 visions of this chapter relating to issues the commission determines are of general interest to public
5 officials or candidates or that are addressed by the commission or by commission staff on a recur-
6 ring basis; and

7 (b) Review rules previously adopted by the commission to determine whether the rules have
8 continuing applicability or whether the rules should be amended or repealed.

9 (5) The commission shall adopt by rule an electronic filing system under which statements re-
10 quired to be filed under ORS 244.050, **244.100** and 244.217 must be filed, without a fee, with the
11 commission in an electronic format.

12 (6) The commission shall make statements filed under ORS 244.050, **244.100** and 244.217 available
13 in a searchable format for review by the public using the Internet.

14 **SECTION 9.** ORS 244.350 is amended to read:

15 244.350. (1) The Oregon Government Ethics Commission may impose civil penalties not to ex-
16 ceed:

17 (a) Except as provided in paragraph (b) of this subsection, \$5,000 for violation of any provision
18 of this chapter or any resolution adopted under ORS 244.160.

19 (b) \$25,000 for violation of ORS 244.045.

20 (2)(a) Except as provided in paragraph (b) of this subsection, the commission may impose civil
21 penalties not to exceed \$1,000 for violation of any provision of ORS 192.660.

22 (b) A civil penalty may not be imposed under this subsection if the violation occurred as a result
23 of the governing body of the public body acting upon the advice of the public body's counsel.

24 (3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708.
25 A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that
26 may be imposed under subsection (1) of this section.

27 (4)(a) The commission may impose civil penalties on a person who fails to file the statement
28 required under ORS 244.050, **244.100** or 244.217. In enforcing this subsection, the commission is not
29 required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050,
30 **244.100** or 244.217 has occurred.

31 (b) Failure to file the required statement in timely fashion is prima facie evidence of a violation
32 of ORS 244.050, **244.100** or 244.217.

33 (c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement
34 is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day
35 thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

36 (5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a
37 civil penalty under this section, the commission may issue a written letter of reprimand, explanation
38 or education.

39 **SECTION 10.** The amendments to ORS 244.020, 244.060, 244.100, 244.110, 244.162, 244.218,
40 244.290 and 244.350 by sections 1 to 9 of this 2011 Act apply to statements filed with the
41 Oregon Government Ethics Commission on or after January 1, 2012.

42 **SECTION 11.** The amendments to ORS 244.020, 244.060, 244.100, 244.110, 244.162, 244.218,
43 244.290 and 244.350 by sections 1 to 9 of this 2011 Act become operative on January 1, 2012.

44 **SECTION 12.** The Oregon Government Ethics Commission may adopt rules or take any
45 other action before the operative date specified in section 11 of this 2011 Act that is neces-

1 sary to enable the commission to exercise, on or after the operative date specified in section
2 11 of this 2011 Act, all the duties, functions and powers conferred upon the commission by
3 the amendments to ORS 244.020, 244.060, 244.100, 244.110, 244.162, 244.218, 244.290 and 244.350
4 by sections 1 to 9 of this 2011 Act.

5 SECTION 13. This 2011 Act being necessary for the immediate preservation of the public
6 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
7 on its passage.

8
