

B-Engrossed
House Bill 3459

Ordered by the House June 20
Including House Amendments dated April 18 and June 20

Sponsored by Representatives MCKEOWN, GOMBERG, FAGAN, SMITH, THATCHER; Representatives BARTON, GALLEGOS, GORSEK, HOLVEY, KENNEMER, REARDON, THOMPSON, UNGER, VEGA PEDERSON, WHITSETT, WILLIAMSON, Senator ROBLAN

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.

Establishes Office of Small Business Assistance in Office of Secretary of State for purpose of facilitating interactions between small businesses and state agencies with regulatory authority over small businesses. Establishes complaint and investigation procedures. Requires preparation of reports for distribution to Secretary of State upon conclusion of investigations of complaints.

Continuously appropriates moneys to Office of Secretary of State to fund functions of Office of Small Business Assistance.

Becomes operative on January 1, 2014.

Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Secretary of State.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to the Office of Small Business Assistance; creating new provisions; amending ORS 56.041;
3 appropriating money; limiting expenditures; and declaring an emergency.

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

5 **SECTION 1. Sections 2 to 5 of this 2013 Act are added to and made a part of ORS chapter**
6 **56.**

7 **SECTION 2. As used in sections 2 to 5 of this 2013 Act:**

8 (1) "Small business" means a prospective, new or established business with 100 or fewer
9 employees that is or will be located in Oregon.

10 (2) "State agency" means an agency of the executive department, as defined in ORS
11 174.112.

12 **SECTION 3. (1) The Office of Small Business Assistance is established within the Office**
13 **of Secretary of State. The Secretary of State shall employ and appoint personnel necessary**
14 **to perform the functions and duties of the Office of Small Business Assistance.**

15 (2) The Office of Small Business Assistance shall:

16 (a) Assist state agencies with regulatory authority over small businesses to ensure that
17 small businesses that are subject to audit, on-site inspection, compliance monitoring or
18 compliance assistance efforts by state agencies, or that receive enforcement-related com-
19 munications from or have contacts with state agencies with regulatory authority over small
20 businesses, are provided with the means to comment on these interactions with state agen-
21 cies.

22 (b) Work with state agencies for the purpose of facilitating interactions between small

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 **businesses and state agencies, including but not limited to obtaining timely responses to**
2 **small business inquiries and requests, and resolving issues that arise in the administrative,**
3 **regulatory and enforcement functions of state agencies with respect to small businesses.**

4 **(c) Work with small businesses and state agencies to identify and recommend efficient,**
5 **responsive and nonretaliatory processes for:**

6 **(A) Receiving concerns or complaints from small businesses regarding interactions with**
7 **state agencies;**

8 **(B) Participation of small businesses in general studies, conferences, inquiries or**
9 **meetings that would improve the functioning of state agencies with regulatory authority**
10 **over small businesses;**

11 **(C) Identifying causes of unnecessary delays, inconsistencies in the administrative, reg-**
12 **ulatory and enforcement functions of state agencies and inefficient uses of state resources;**
13 **and**

14 **(D) Making recommendations for resolving issues and disputes that arise in the context**
15 **of interactions between state agencies and small businesses.**

16 **(3) All state agencies shall cooperate with and assist the Office of Small Business As-**
17 **sistance in the performance of its duties and functions.**

18 **(4) Writings and information provided to, and communications with, the Office of Small**
19 **Business Assistance under subsection (2) of this section are confidential and exempt from**
20 **disclosure under ORS 192.410 to 192.505, except as necessary to prepare the report required**
21 **under section 4 of this 2013 Act.**

22 **(5) The Secretary of State may adopt rules necessary to implement the provisions of**
23 **sections 2 to 5 of this 2013 Act.**

24 **SECTION 4. (1) In addition to the duties and responsibilities described in section 3 of this**
25 **2013 Act, the Office of Small Business Assistance may, except as provided in subsection (2)**
26 **of this section, conduct reviews and investigations of complaints received from small busi-**
27 **nesses with respect to interactions with state agencies.**

28 **(2) The office may not review and investigate a complaint under this section if the office**
29 **determines that:**

30 **(a) The complainant could reasonably be expected to use, or is using, an alternative**
31 **remedy or recourse for the complaint;**

32 **(b) The complaint relates to a matter outside the jurisdiction of the office;**

33 **(c) The complaint was delayed too long to justify review and investigation;**

34 **(d) The complainant does not have sufficient personal interest in, or is not personally**
35 **aggrieved or affected by the subject matter of, the complaint;**

36 **(e) The complaint is trivial, frivolous, vexatious or not made in good faith;**

37 **(f) The resources of the office are insufficient for adequate review and investigation of**
38 **the complaint;**

39 **(g) The review and investigation of other complaints take precedence over the review and**
40 **investigation of the complaint; or**

41 **(h) The complaint is the subject of pending litigation, a pending contested case proceeding**
42 **under ORS chapter 183 or an agency action that could result in a contested case proceeding**
43 **under ORS chapter 183.**

44 **(3) The office shall notify a complainant as to whether the office will review and investi-**
45 **gate the complaint within 30 days of receiving the complaint.**

1 **(4) If the office has undertaken a review and investigation of the complaint:**

2 **(a) Upon the complainant's request, the office shall inform the complainant of the status**
3 **of the review and investigation; and**

4 **(b) Upon conclusion of the review and investigation, the office shall:**

5 **(A) Inform the complainant of the office's conclusions and recommendations; and**

6 **(B) Provide the complainant with a copy of the report prepared under subsection (6) of**
7 **this section.**

8 **(5) The office may make recommendations to a state agency for resolution of a complaint**
9 **made under this section and work with the agency to resolve the complaint. The office may**
10 **also contact and discuss a complaint with the administrative head of any state agency, any**
11 **state agency manager, the Governor or any member of the public for the purpose of obtain-**
12 **ing the cooperation and assistance of a state agency with the complaint resolution process.**

13 **(6)(a) Upon completing the review and investigation of a complaint under this section, the**
14 **office shall prepare a report containing the office's conclusions and recommendations.**

15 **(b) Before finalizing, and providing copies of, the report prepared under this subsection,**
16 **the office shall provide the state agency that is the subject of the report with a preliminary**
17 **report.**

18 **(c) Upon receipt of the preliminary report, the state agency shall have not more than 15**
19 **days to comment on the report.**

20 **(d) If the state agency chooses to comment on the preliminary report, the final report**
21 **shall include a section that contains the agency's comments.**

22 **(e) The office shall provide copies of the final report prepared under this subsection to**
23 **the Secretary of State.**

24 **SECTION 5. A person who makes a complaint or who participates in a review and in-**
25 **vestigation of a complaint under section 4 of this 2013 Act may not be subject to a penalty,**
26 **sanction or restriction in connection with the person's employment or be denied any right,**
27 **privilege or benefit because of the complaint or because of any review and investigation of**
28 **the complaint.**

29 **SECTION 6. ORS 56.041 is amended to read:**

30 56.041. (1) The Operating Account is established in the General Fund of the State Treasury.

31 (2) The net amount accruing to the Secretary of State from all fees, charges, interest, fines,
32 penalties and miscellaneous revenues from all sources relating to business registry functions, and
33 moneys received by the Secretary of State under ORS chapters 79 and 194 and ORS 80.100 to 80.130,
34 87.246, 87.767 and 87.806 to 87.831 shall, after deduction of refunds, be paid over to the State
35 Treasurer and deposited at least monthly in the Operating Account.

36 (3) Moneys deposited to the credit of the Operating Account are continuously appropriated to
37 the Secretary of State for the expenses of carrying out the functions and duties of the Secretary of
38 State relating to business registry, and the functions and duties of the Secretary of State under ORS
39 chapters 79 and 194 and ORS 80.100 to 80.130, 87.246, 87.767 and 87.806 to 87.831 **and sections 2**
40 **to 5 of this 2013 Act.**

41 (4) At the end of each month, the Secretary of State shall determine the number of business
42 registry filings during the month for which the Secretary of State collected the fees described in
43 ORS 56.140 (1) to (4). An amount equal to \$20 for each of those filings shall be deposited by the
44 Secretary of State in the Operating Account. The Secretary of State shall then deposit all other
45 moneys from the fees collected during the month under ORS 56.140 (1) to (4) in the General Fund.

1 Amounts deposited to the General Fund under this subsection are available for general govern-
2 mental expenses.

3 **SECTION 7.** (1) Sections 1 to 5 of this 2013 Act and the amendments to ORS 56.041 by
4 section 6 of this 2013 Act become operative on January 1, 2014.

5 (2) The Secretary of State may take any action before the operative date specified in
6 subsection (1) of this section that is necessary to enable the Secretary of State to exercise,
7 on and after the operative date specified in subsection (1) of this section, all of the duties,
8 functions and powers conferred on the Secretary of State by sections 2 to 5 of this 2013 Act
9 and the amendments to ORS 56.041 by section 6 of this 2013 Act.

10 **SECTION 8.** Notwithstanding any other law limiting expenditures, the amount of \$248,162
11 is established for the biennium beginning July 1, 2013, as the maximum limit for payment of
12 expenses for the Office of Small Business Assistance from fees, moneys or other revenues,
13 including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or
14 received by the Secretary of State.

15 **SECTION 9.** This 2013 Act being necessary for the immediate preservation of the public
16 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
17 July 1, 2013.

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