

Senate Bill 531

Sponsored by Senator SHIELDS, Representative FREDERICK (at the request of Sam Pardue, CEO and founder of Indow Windows)

SUMMARY

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

Creates Oregon Intellectual Property Protection Corporation. Specifies composition of and qualifications for board of directors and powers of corporation. Specifies laws to which corporation is subject and from which corporation is exempt.

Establishes Oregon Intellectual Property Protection Fund. Continuously appropriates moneys in fund to corporation for purposes set forth in Act. Permits board of directors of corporation to invest moneys in fund subject to certain restrictions. Subjects fund to audit by Secretary of State.

Permits board of directors of corporation to establish program under which corporation accepts and pools contributions of moneys from Oregon businesses for purpose of providing legal defense and litigation assistance to protect intellectual property rights of Oregon businesses from infringement.

A BILL FOR AN ACT

1
2 Relating to protecting the intellectual property rights of Oregon businesses; and appropriating
3 money.

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

5 **SECTION 1. (1) As used in sections 1 to 11 of this 2013 Act:**

6 (a) **“Oregon business” means a business in which:**

7 (A) **All or a majority of the owners, shareholders, directors or managers are residents**
8 **of this state;**

9 (B) **All or a majority of the operations are conducted within this state or all or a majority**
10 **of the revenues are derived from operations within this state;**

11 (C) **All or a majority of the employees are residents of this state;**

12 (D) **The headquarters or main office is located in this state; or**

13 (E) **The laws that govern the formation and operation of the business are the laws of this**
14 **state.**

15 (b) **“Public corporation” means an entity that the State of Oregon creates to carry out**
16 **a public purpose, mission or service by participating in activities in which a private enter-**
17 **prise may also participate in the ordinary course of the private enterprise’s business.**

18 (2) **The Oregon Intellectual Property Protection Corporation is created as an independent**
19 **public corporation with the purposes and powers set forth in section 2 of this 2013 Act. The**
20 **Governor shall appoint, subject to Senate confirmation under Article III, section 4, of the**
21 **Oregon Constitution, a board of five directors, as follows:**

22 (a) **One director who represents a small business, as defined by the United States Small**
23 **Business Administration in 13 C.F.R. part 121, as in effect as of the effective date of this**
24 **2013 Act, that is an Oregon business and that depends on intellectual property for a signif-**
25 **icant portion of the small business’s revenue, capital or other assets;**

26 (b) **One director who represents a large Oregon business that depends on intellectual**
27 **property for a significant portion of the Oregon business’s revenue, capital or other assets;**

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 (c) One director who is a member of the Oregon State Bar and has extensive experience
2 in filing registration and other applications for intellectual property protection or in licensing
3 intellectual property to or from other entities;

4 (d) One director who is a member of the Oregon State Bar and has extensive experience
5 in litigating infringements of intellectual property rights; and

6 (e) One director who represents the public.

7 (3) A director of the corporation may not have any pecuniary interest, other than an
8 incidental interest that the director discloses and makes a matter of public record at the
9 time the Governor appoints the director, in any corporation or business entity other than
10 the Oregon Intellectual Property Protection Corporation that, during the director's term of
11 office, will likely benefit, financially or otherwise, from the Oregon Intellectual Property
12 Protection Corporation's operations.

13 (4) A director's term of office is four years, but a director serves at the pleasure of the
14 Governor. The Governor shall appoint a successor before a director's term expires or a re-
15 placement for the remainder of a director's term of office if the director's position is vacant
16 for any reason. The Governor's appointment of a successor or replacement is immediately
17 effective but is subject to Senate confirmation under Article III, section 4, of the Oregon
18 Constitution. A director is eligible for reappointment.

19 (5) A director is entitled to compensation and expenses as provided in ORS 292.495.

20 (6) The board of directors shall select a director as chairperson and another director as
21 vice chairperson, for terms and with duties and powers the board considers necessary to
22 perform the functions of chairperson and vice chairperson. A majority of the members of the
23 board constitutes a quorum for transacting business.

24 (7) The board of directors shall meet at least once every three months at a time and
25 place the board designates or at other times and places the chairperson or a majority of the
26 board specifies.

27 (8) The board of directors shall establish policies for operating the Oregon Intellectual
28 Property Protection Corporation that are consistent with applicable provisions of law.

29 (9) Not later than April 15 of each year, the board of directors shall file with the Gover-
30 nor and the Legislative Assembly a report that describes the operations and activities of the
31 corporation during the preceding year.

32 (10) The board of directors shall appoint a president and the officers the board deems
33 necessary to administer and manage the corporation. The president shall direct the
34 corporation's affairs subject to the board's oversight and supervision.

35 **SECTION 2.** (1) The Oregon Intellectual Property Protection Corporation is a govern-
36 mental entity that performs governmental functions and exercises governmental powers, but
37 is not a unit of local or municipal government or a state agency for purposes of state stat-
38 utes or constitutional provisions. The corporation shall carry out the purposes set forth in
39 subsection (2) of this section and has the powers, rights and privileges that sections 1 to 11
40 of this 2013 Act expressly confer on the corporation or that are otherwise implied by law or
41 are incident to expressly conferred powers, rights and privileges.

42 (2) The purposes of the Oregon Intellectual Property Protection Corporation, in carrying
43 out the corporation's mission as a public corporation, are:

44 (a) To serve the people of the State of Oregon by assisting Oregon businesses in pro-
45 tecting the businesses' intellectual property rights from infringement;

1 **(b) To promote research and development within the State of Oregon of new inventions,**
2 **technologies, devices and other useful arts that create and expand markets for Oregon pro-**
3 **ducts, promote employment and contribute to a robust Oregon economy;**

4 **(c) To manage and invest the corporation's funds and other assets, or funds and assets**
5 **committed to the corporation's care, prudently and with consideration for the long-term so-**
6 **cial and economic consequences of the corporation's management and investment activities;**

7 **(d) To maintain public accountability and responsible stewardship of public and private**
8 **funds; and**

9 **(e) To operate in such a way as to ensure the corporation's continued viability and vi-**
10 **talidity within the marketplace.**

11 **(3) In order to carry out the purposes set forth in subsection (2) of this section, the**
12 **Oregon Intellectual Property Protection Corporation has the power to:**

13 **(a) Acquire or license intellectual property rights and directly enforce the intellectual**
14 **property rights the corporation has acquired or licensed in the corporation's own name;**

15 **(b) Sell, license, sublicense or otherwise dispose of intellectual property rights that the**
16 **corporation has acquired or licensed, while ensuring that with the disposition the corporation**
17 **realizes the highest possible income or rate of return that:**

18 **(A) Is consistent with the corporation's public purpose to consider the long-term social**
19 **and economic consequences of managing and investing the corporation's funds and other**
20 **assets; and**

21 **(B) Respects the competitive interests and other interests of Oregon businesses from**
22 **which the corporation has acquired or licensed the intellectual property rights;**

23 **(c) Serve as a broker or clearinghouse on behalf of Oregon businesses and entities that**
24 **intend to acquire or license intellectual property rights from Oregon businesses;**

25 **(d) Provide funding, expertise and other services to Oregon businesses to assist the**
26 **businesses in enforcing and defending the businesses' intellectual property rights against**
27 **infringement or unauthorized use;**

28 **(e) Enter into partnerships, joint ventures or other business arrangements with any**
29 **public or private entity;**

30 **(f) Employ or enter into contracts with intellectual property experts, attorneys, con-**
31 **sultants and other knowledgeable persons;**

32 **(g) Sue or be sued in the corporation's own name by any public or private entity in any**
33 **local, state or federal forum;**

34 **(h) Acquire, purchase, receive, hold, own, control, lease, rent, manage, operate, use, im-**
35 **prove, develop, construct, equip, furnish, lend, sell, convey, exchange or otherwise dispose**
36 **of real and personal property of any description or nature;**

37 **(i) Solicit and receive gifts and donations for the benefit of the corporation and, subject**
38 **to the terms of the gift or donation, retain, invest and use the gift or donation;**

39 **(j) Acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and**
40 **invest all funds, appropriations, gifts, bequests, securities and revenue from any source;**

41 **(k) Borrow money in amounts, for times and on terms that the corporation's board of**
42 **directors deems appropriate;**

43 **(L) Purchase insurance, operate a self-insurance program or otherwise arrange for**
44 **equivalent insurance of any nature;**

45 **(m) Indemnify and defend the corporation's directors, officers, agents or employees;**

1 (n) Adopt, amend and repeal bylaws, administrative rules, orders and policies and other-
2 wise administer and manage the corporation's affairs;

3 (o) Perform any other act that in the judgment of the corporation's board of directors
4 is necessary or appropriate to carry out the corporation's purposes; and

5 (p) Exercise the powers set forth in this subsection notwithstanding that by exercising
6 the powers the corporation engages in activities that state or federal antitrust laws may
7 deem anticompetitive.

8 **SECTION 3.** (1) Except as otherwise provided by law, the provisions of ORS 279.835 to
9 279.855 and 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292
10 and 293 do not apply to the Oregon Intellectual Property Protection Corporation.

11 (2) The Oregon Intellectual Property Protection Corporation may contract with any state
12 agency to perform duties, functions and powers imposed by law or otherwise committed to
13 or conferred on the corporation.

14 (3) Notwithstanding subsection (1) of this section, the provisions of ORS 293.240, 293.260,
15 293.262 and 293.505 (2) apply to the directors, officers, employees and accounts of the Oregon
16 Intellectual Property Protection Corporation and any subsidiary corporation the Oregon In-
17 tellectual Property Protection Corporation forms or acquires to the same extent that the
18 provisions apply to a state agency.

19 (4) Notwithstanding subsection (1) of this section, the provisions of ORS 279A.100 apply
20 to the directors, officers and employees of the Oregon Intellectual Property Protection Cor-
21 poration.

22 (5)(a) Except as provided in paragraph (b) of this subsection, the provisions of ORS 30.260
23 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 243.650 to 243.782, 297.040,
24 307.090 and 307.112 and ORS chapters 35, 190, 192, 244 and 295 apply to the Oregon Intellectual
25 Property Protection Corporation under the same terms as they apply to public bodies other
26 than the state of Oregon.

27 (b) Documents, records, technologies, devices, apparatuses or any other materials that
28 constitute intellectual property that the Oregon Intellectual Property Protection Corporation
29 has acquired or licensed from another person are not public records and are exempt from
30 disclosure under ORS chapter 192.

31 **SECTION 4.** (1) The Oregon Intellectual Property Protection Fund is established, sepa-
32 rate and distinct from the General Fund. Interest, income, dividends or profits earned on
33 moneys in the Oregon Intellectual Property Protection Fund must be credited to the fund
34 and are continuously appropriated in accordance with subsection (2) of this section.

35 (2) Except for moneys otherwise designated by statute, the Oregon Intellectual Property
36 Protection Corporation shall pay all fees, assessments, proceeds and any other moneys the
37 corporation receives to the State Treasury and to the credit of the fund. All moneys in the
38 fund are continuously appropriated to the corporation for the purposes set forth in sections
39 1 to 11 of this 2013 Act.

40 (3) Subject to the terms of a particular gift or donation, the Oregon Intellectual Property
41 Protection Corporation may invest the moneys in the fund in accordance with standards set
42 forth in section 5 of this 2013 Act.

43 (4) The Oregon Intellectual Property Protection Corporation may establish accounts and
44 subaccounts within the fund if the corporation's board of directors determines that accounts
45 or subaccounts are necessary. The board may credit any account or subaccount within the

1 fund with interest, income, dividends or profits. The board shall keep a record of the moneys
2 deposited into the fund and shall indicate by separate cumulative accounts and subaccounts
3 the sources from which the moneys are derived and the activity or program against which
4 each withdrawal is charged.

5 **SECTION 5.** (1) The board of directors of the Oregon Intellectual Property Protection
6 Corporation may invest the moneys in the Oregon Intellectual Property Protection Fund and
7 shall manage the investments the board makes as a prudent investor would do, under the
8 circumstances then prevailing and in light of the purposes, terms, distribution requirements
9 and laws that govern the fund. The board may contract with or delegate authority to another
10 person to invest the moneys or manage the investments, provided that the board requires
11 the other person to invest the moneys or manage the investments in accordance with the
12 provisions of this section.

13 (2) For the purposes of this section, investing the moneys of the fund or managing the
14 investments the board of directors makes as a prudent investor would do means that the
15 board or the person with which the board contracts or to which the board delegates au-
16 thority shall exercise reasonable care, skill and caution in the context of each investment
17 and shall manage each investment as part of an overall investment strategy that incorpo-
18 rates risk and return objectives that are reasonably suited to the board's goals and subject
19 to requirements imposed by law.

20 (3) The board of directors and any person with which the board contracts or to which the
21 board delegates authority to invest the moneys of the fund or manage the investments has
22 a duty to diversify the investments unless under the circumstances diversification is not
23 prudent. In addition to the duty to diversify investments, the board or the person:

24 (a) Has the fiduciary duties of loyalty and impartiality with respect to the interests of
25 the Oregon Intellectual Property Protection Corporation;

26 (b) Shall act with prudence in deciding whether and how to delegate authority and in
27 selecting and supervising agents; and

28 (c) Shall incur only costs that are reasonable in amount and appropriate to the invest-
29 ment responsibilities imposed by law.

30 (4)(a) Except as provided in paragraph (b) of this subsection, a member of the board of
31 directors or a person with which the board has contracted or to which the board has deleg-
32 ated authority to invest moneys and manage investments, within three business days after
33 becoming aware that an investment decision or other matter that is pending before the board
34 might lead to a private pecuniary benefit or detriment to the member, the person, a relative
35 of the member or person or to a business with which the member, the person or the relative
36 is associated, shall notify the board in writing that the member's or person's action, decision
37 or recommendation may constitute an actual or potential conflict of interest.

38 (b) The requirement under paragraph (a) of this subsection for a member of the board
39 of directors to notify the board of a potential conflict of interest does not apply if the
40 member's pecuniary benefit or detriment arises out of:

41 (A) An interest or membership in a particular business, industry, occupation or class the
42 member must have in order to be a member of the board;

43 (B) An action the member would take in the member's official capacity as a board
44 member that would affect to the same degree a class that consists of all residents of this
45 state or a smaller class that consists of an industry, occupation or other group with which

1 the member, a relative of the member or a business with which the member is associated;
2 or

3 (C) Membership in, or membership on the board of directors of, a nonprofit corporation
4 that is tax exempt under section 501(c) of the Internal Revenue Code.

5 (5) A member of the board of directors of the Oregon Intellectual Property Protection
6 Corporation shall resolve an actual or potential conflict of interest described in this section
7 in accordance with the procedure set forth in ORS 244.120.

8 **SECTION 6.** (1) The Oregon Intellectual Property Protection Fund is a trust fund exclu-
9 sively for the uses and purposes declared in sections 1 to 11 of this 2013 Act, except that this
10 provision does not amend or impair the force or effect of any law of this state that specif-
11 ically authorizes the Oregon Intellectual Property Protection Corporation to invest moneys
12 from the fund.

13 (2) Subject to the right of the State of Oregon to direct legislatively the disposition of
14 any surplus that exceeds reserves or that is necessary to assure the corporation's fiscal
15 soundness for current operations and future capital needs, the State of Oregon declares that
16 the state does not have a proprietary interest in the fund.

17 **SECTION 7.** (1) The Oregon Intellectual Property Protection Corporation shall set aside
18 a portion of the interest and other income the corporation receives from investing moneys
19 from the Oregon Intellectual Property Protection Fund in an amount the corporation con-
20 siders necessary to maintain one or more reserve accounts. The corporation shall maintain
21 and use the reserve accounts to offset gains and losses of invested capital.

22 (2) The corporation may amortize gains and losses of capital the corporation invests
23 whenever the corporation determines that amortization is preferable to offsetting the gain
24 or loss with moneys from a reserve account described in subsection (1) of this section.

25 **SECTION 8.** (1)(a) The Secretary of State shall conduct an annual audit of the Oregon
26 Intellectual Property Protection Corporation and the Oregon Intellectual Property Protection
27 Fund in accordance with ORS 297.210. As part of the audit, the Secretary of State shall
28 contract with a firm qualified to audit accounts of the type that the corporation maintains.

29 (b) The firm that conducts the audit required under paragraph (a) of this subsection
30 must be familiar with the accounting standards that apply to the reserves under review and
31 shall maintain errors and omissions insurance with limits that the Secretary of State pre-
32 scribes.

33 (c) The Secretary of State shall determine the scope of the audit required under para-
34 graph (a) of this subsection, which must include, but is not limited to:

35 (A) Reviewing the sources and uses of the moneys in the Oregon Intellectual Property
36 Protection Fund;

37 (B) Reconciling changes in reserve values from the prior year;

38 (C) Examining the development of reserve inadequacies or redundancies over time;

39 (D) Assessing the future financial viability of the Oregon Intellectual Property Protection
40 Fund; and

41 (E) Evaluating losses and loss adjustment expense reserves in accordance with standards
42 developed for reasonably comparable operating and investment funds.

43 (d) The corporation shall cooperate with the auditing firm in all respects and shall permit
44 the firm full access to all information the firm deems necessary for a true and complete
45 audit. Documents, records, technologies, devices, apparatuses or any other materials pro-

1 vided to the auditing firm that constitute intellectual property that the corporation has ac-
2 quired or licensed from another person are not public records and are exempt from
3 disclosure under ORS chapter 192.

4 (e) The auditing firm shall conduct the audit required under paragraph (a) of this sub-
5 section using generally accepted accounting principles.

6 (f) The corporation shall pay the cost of the audit required under paragraph (a) of this
7 subsection.

8 (2) The Secretary of State shall issue an annual report to the Governor, the President
9 of the Senate and the Speaker of the House of Representatives on the results of the audit.
10 The report of the audit is available for public inspection in accordance with the Secretary
11 of State's established rules and procedures that govern public disclosure of audit documents.

12 (3) This section does not preclude the corporation from conducting an internal audit or
13 an independent audit of the corporation's operations or of the Oregon Intellectual Property
14 Protection Fund whenever the corporation's board of directors deems an audit necessary or
15 prudent.

16 **SECTION 9.** The board of directors of the Oregon Intellectual Property Protection Cor-
17 poration shall report to the Secretary of State by March 15 of each year:

18 (1) The total amount of assets in the Oregon Intellectual Property Protection Fund as
19 of December 31 of the prior year;

20 (2) The reserves and surplus moneys the board established for the fund;

21 (3) Any funds in addition to the funds described in subsection (2) of this section; and

22 (4) The total amount of investment gain the fund generated during the prior year ending
23 on December 31.

24 **SECTION 10.** Not later than the 90th day after the Secretary of State completes and de-
25 livers to the appropriate authority an audit under section 8 of this 2013 Act, the Oregon In-
26 tellectual Property Protection Corporation or any subsidiary corporation the Oregon
27 Intellectual Property Protection Corporation formed or acquired shall notify the Secretary
28 of State in writing of the measures the corporation or the subsidiary has taken or proposes
29 to take, if any, to respond to the recommendations of the audit report. The Secretary of
30 State may extend the 90-day period for good cause.

31 **SECTION 11.** (1)(a) The board of directors of the Oregon Intellectual Property Protection
32 Corporation may establish a program under which the corporation accepts and pools contri-
33 butions of moneys from Oregon businesses for the purpose of providing legal defense and
34 litigation assistance to protect the intellectual property rights of Oregon businesses from
35 infringement. The board shall establish a separate account within the Oregon Intellectual
36 Property Protection Fund to receive and hold the moneys that Oregon businesses contribute
37 under the terms of the program. The moneys in the account are continuously appropriated
38 to the corporation for the purposes set forth in this section.

39 (b)(A) The board by rule may establish requirements that an Oregon business must meet
40 to contribute moneys for the purpose of funding a program the board establishes under this
41 subsection and to receive benefits through the program.

42 (B) Requirements for an Oregon business to contribute moneys to a program the board
43 establishes under this subsection must include:

44 (i) That the Oregon business joins the program as a member with a specified term of
45 membership;

1 (ii) That the Oregon business contributes moneys to the fund in amounts that the board
2 determines are necessary to pay the expenses of administering the program and to ensure
3 the viability and continued operation of the program;

4 (iii) That the Oregon business executes a contract with the corporation with terms and
5 conditions that require the Oregon business to abide by the program's requirements and
6 rules; and

7 (iv) That the Oregon business indemnifies the corporation and the fund against all claims
8 and losses that arise out of and are attributable to the Oregon business's willfully, inten-
9 tionally or negligently infringing another person's intellectual property rights or bringing a
10 false or frivolous claim for another person's infringement of the Oregon business's intellec-
11 tual property rights.

12 (C) Subject to the requirements set forth in rules the board adopts under subparagraph
13 (A) of this paragraph, options the board may consider for accepting contributions from
14 Oregon businesses for a program the board establishes under this subsection include:

15 (i) Allowing different levels of required contributions and categories of membership based
16 on the Oregon business's size, capitalization, revenue, number of employees or other criteria
17 the board specifies by rule;

18 (ii) Allowing Oregon businesses to contribute securities or cash equivalents to the fund;

19 (iii) Establishing ongoing or regular contributions to the fund over time periods the board
20 specifies by rule;

21 (iv) Permitting an Oregon business to make contributions to the fund in installments or
22 by means of periodic payments; or

23 (v) Other options the board deems appropriate that are consistent with the board's obli-
24 gation to ensure the viability and continued operation of the program and to pay the ex-
25 penses of administering the program.

26 (2)(a) The board of directors, before establishing a program under subsection (1) of this
27 section, shall specify by rule how many Oregon businesses must participate in the program
28 and the amount of contributions that the Oregon businesses must make to the Oregon In-
29 tellectual Property Protection Fund to ensure the viability and continued operation of the
30 program and to pay the expenses the board will incur in administering the program. The
31 board may specify a time period within which or a date by which the board must receive
32 applications for membership and agreements under which applicants pledge contributions to
33 the fund.

34 (b) If the board does not receive pledge agreements or contributions that are sufficient
35 to meet the requirement set forth in paragraph (a) of this subsection within the time period
36 or by the deadline the board specifies, the board shall decline to establish the program de-
37 scribed in subsection (1) of this section, shall withdraw from any pledge agreements with any
38 Oregon businesses that have entered into a pledge agreement with the board and shall return
39 any contributions that the board received from an Oregon business for the purpose specified
40 in subsection (1) of this section.

41 (3)(a) The board of directors by rule shall specify conditions under which and procedures
42 by which an Oregon business may apply for monetary assistance through the program de-
43 scribed in subsection (1) of this section. The board may specify a cap on the moneys an
44 Oregon business may receive through the program, may describe restrictions on, or criteria
45 that will govern, the type of case or legal action for which the board will pay expenses and

1 may specify other terms and conditions under which an Oregon business may receive moneys
2 and other benefits through the program described in subsection (1) of this section as a con-
3 sequence of the Oregon business's membership in and contributions to the program.

4 (b) The board shall adopt rules that specify whether and to what extent the Oregon In-
5 tellectual Property Protection Corporation will benefit from a successful defense of an
6 Oregon business's intellectual property rights that the corporation undertakes or contracts
7 to have undertaken on the Oregon business's behalf or for which the board pays expenses
8 under the program described in subsection (1) of this section. The rules shall specify the
9 proportion, formula or other method that will determine the extent, if any, to which the
10 corporation will have a share in any recovery that results from successfully defending an
11 Oregon business's intellectual property rights from infringement.

12 (c) The board shall adopt rules under this subsection only after consulting with Oregon
13 businesses from which the board has accepted applications for membership and received
14 contributions to the program described in subsection (1) of this section.

15 (4)(a) For the purposes of the Insurance Code, with respect to the program described in
16 subsection (1) of this section, the Oregon Intellectual Property Protection Corporation is not
17 an insurer and implementing the program does not constitute transacting insurance. The
18 activities of the corporation and the board of directors in implementing the program are not
19 subject to the provisions of the Insurance Code.

20 (b) The board may obtain insurance for the purpose of reducing risk to the program or
21 the account described in subsection (1) of this section in such amounts and under such terms
22 as the board deems appropriate.

23 (5) The board of directors may delegate to an officer or employee of the Oregon Intel-
24 lectual Property Protection Corporation, subject to the board's continuing oversight and
25 supervision, any duty, function or responsibility identified in this section as a duty, function
26 or responsibility of the board.

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