

# House Bill 2037

Sponsored by Representative HUFFMAN (Presession 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**.

Reorganizes Oregon State Capitol Foundation as nonprofit corporation. Authorizes foundation to establish reasonably prudent funds and accounts and to engage in education and advice to promote policies and objectives of foundation. Directs Legislative Administrator to provide meeting space and administrative support to the foundation.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to the Oregon State Capitol Foundation; creating new provisions; amending ORS 173.500,  
3 276.003 and 292.047; and declaring an emergency.

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

5 **SECTION 1.** ORS 173.500 is amended to read:

6 173.500. (1)(a) There is established [*within the legislative department*] the Oregon State Capitol  
7 Foundation. The foundation shall be composed of not fewer than nine and not more than 25 voting  
8 [*members*] **directors**, who shall each serve a term of four years. The President of the Senate shall  
9 appoint three voting [*members*] **directors** from members of the Senate. The Speaker of the House  
10 of Representatives shall appoint three voting [*members*] **directors** from members of the House of  
11 Representatives. The Legislative Administration Committee shall appoint the remaining voting  
12 [*members*] **directors**. A [*member*] **director** is eligible for reappointment. [*At all times there shall be*  
13 *appointed to the foundation an odd number of voting members.*] The foundation may appoint honorary,  
14 nonvoting members to the foundation.

15 **(b) The foundation shall elect a chair from among the voting directors of the foundation.**  
16 **A director shall serve as chair for a two-year term and may thereafter be reelected as chair,**  
17 **except that:**

18 **(A) The foundation may replace a chair by majority vote of the foundation; and**

19 **(B) A chair must at all times be a voting director of the foundation.**

20 (2) The Oregon State Capitol Foundation shall:

21 (a) Advise the Legislative Administration Committee on the terms and conditions of contracts  
22 or agreements entered into under ORS 276.002.

23 (b) Recommend to the committee renovations, repairs and additions to the State Capitol.

24 (c) Recommend to the committee exhibits and events for the State Capitol.

25 (d) Deposit gifts, grants, donations and moneys converted from gifts or donations of other than  
26 money into separate trust accounts reserved for the purposes of the gifts, grants and donations.

27 (e) Develop, maintain and implement plans to:

28 (A) Enhance and embellish the State Capitol in keeping with the design and purpose of the  
29 building and adjacent areas; and

30 (B) Preserve the history of activities of state government that have occurred in the State Capitol

**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 and of persons who have participated in state government in the State Capitol.

2 *[(f) Adopt rules to guide the foundation and implement the foundation’s responsibilities under this*  
 3 *subsection and the foundation’s authority under subsections (3) to (5) of this section.]*

4 **(f) Establish such funds and accounts as are reasonably prudent for a nonprofit corpo-**  
 5 **ration of the scope and mission of the foundation.**

6 (g) Consult with any advisory committees the Legislative Administration Committee may desig-  
 7 nate before the foundation makes a recommendation required by this subsection.

8 (3) The Oregon State Capitol Foundation may:

9 (a) Solicit and accept gifts, grants and donations from public and private sources in the name  
 10 of the foundation.

11 *[(b) Under guidelines adopted by the Legislative Administration Committee, expend moneys from*  
 12 *the Oregon State Capitol Foundation Fund for the purposes set out in subsection (2) of this section,*  
 13 *including but not limited to the reasonable and necessary operating expenses of the foundation.]*

14 *[(c)]* (b) Convert gifts or donations other than money into moneys.

15 **(c) Advise and educate in relation to changes in statutory law or adopted policy of the**  
 16 **Legislative Administration Committee in order to implement or promote the policies and**  
 17 **objectives of the foundation, except that such advice and education is limited to:**

18 **(A) Activities permitted within the limits afforded to organizations established under**  
 19 **section 501 (c)(3) of the Internal Revenue Code; and**

20 **(B) Advice or education undertaken by the foundation that furthers the purposes of the**  
 21 **foundation under subsection (2) of this section.**

22 *[(d) Become or create an organization under section 501(c)(3) of the Internal Revenue Code.]*

23 *[(4)(a) As used in this subsection, “community foundation” has the meaning given that term in ORS*  
 24 *348.580.]*

25 *[(b) The Oregon State Capitol Foundation may enter into agreements with a person, including a*  
 26 *community foundation in Oregon, for the person to assume the management of the moneys in the*  
 27 *Oregon State Capitol Foundation Fund. The Oregon State Capitol Foundation may transfer to the*  
 28 *person any moneys in the fund.]*

29 *[(c) The Oregon State Capitol Foundation shall include in any agreement entered into under this*  
 30 *subsection a requirement that:]*

31 *[(A) The person conduct a periodic independent financial audit of the moneys transferred to the*  
 32 *person.]*

33 *[(B) The person prepare an annual financial report according to generally accepted accounting*  
 34 *principles.]*

35 *[(C) The person submit an annual financial report to the Oregon State Capitol Foundation, the*  
 36 *Legislative Administration Committee and the Oregon Investment Council.]*

37 *[(d) If a provision of an agreement entered into under this subsection would cause the person to*  
 38 *be out of compliance with a federal law, the Oregon State Capitol Foundation may waive the*  
 39 *provision.]*

40 **(4) The Oregon State Capitol Foundation shall cause an independent audit to be per-**  
 41 **formed annually of all foundation finances. The auditor shall prepare an annual financial**  
 42 **report according to generally accepted accounting principles and shall submit the report to**  
 43 **the foundation and the Legislative Administration Committee.**

44 (5) *[The Oregon State Capitol Foundation may, through the Legislative Administrator, enter into*  
 45 *contracts or agreements to implement the foundation’s responsibilities and authority.]* **The chair of the**

1 **Oregon State Capitol Foundation may enter into contracts to carry out those functions and**  
 2 **policies of the foundation for which the foundation has granted the chair contract authority.**  
 3 ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C do not apply to a contract or  
 4 agreement entered into by the foundation. **The chair may delegate the contracting authority**  
 5 **granted under this subsection to the Legislative Administrator.**

6 (6) The Oregon State Capitol Foundation may take action under this section upon a majority  
 7 vote of a quorum of [*members*] **directors**. A majority of the voting [*members*] **directors** of the  
 8 foundation constitutes a quorum for the transaction of business.

9 (7) Notwithstanding ORS 171.072, **directors or nonvoting** members of the foundation who are  
 10 members of the Legislative Assembly are not entitled to mileage expenses or a per diem and serve  
 11 as volunteers on the foundation.

12 **(8) The Oregon State Capitol Foundation may adopt its own rules and bylaws and is not**  
 13 **subject to the rules of either house of the Legislative Assembly or Mason’s Manual of Leg-**  
 14 **islative Procedure. The foundation shall adopt rules and bylaws to guide the foundation and**  
 15 **implement the foundation’s responsibilities under this section.**

16 **(9) The Oregon State Capitol Foundation is not a part of the legislative department as**  
 17 **defined in ORS 174.114 or a public body as defined in ORS 174.109. For purposes of ORS**  
 18 **chapter 244, neither the Oregon State Capitol Foundation nor any director or nonvoting**  
 19 **member of the foundation may be considered to have a legislative or administrative interest.**

20 **(10) The Legislative Administrator shall provide meeting space and administrative sup-**  
 21 **port for the Oregon State Capitol Foundation.**

22 **SECTION 2.** ORS 276.003 is amended to read:

23 276.003. (1) There is created in the General Fund of the State Treasury a State Capitol Operat-  
 24 ing Account. Moneys credited to the account are appropriated continuously to the Legislative Ad-  
 25 ministration Committee to pay the expenses of operating, maintaining, protecting and insuring the  
 26 State Capitol and to reimburse the State Parks and Recreation Department for a share of the ex-  
 27 penses of ground maintenance, utilities and other necessary expenses.

28 *[(2) There is established the Oregon State Capitol Foundation Fund in the State Capitol Operating*  
 29 *Account of the General Fund established under subsection (1) of this section. All moneys received by*  
 30 *the Legislative Administration Committee allocated to the Oregon State Capitol Foundation shall be*  
 31 *credited to the Oregon State Capitol Foundation Fund. All moneys received under ORS 292.047 and*  
 32 *directed to the Oregon State Capitol Foundation Fund shall be credited to the Oregon State Capitol*  
 33 *Foundation Fund. All moneys credited to the Oregon State Capitol Foundation Fund are continuously*  
 34 *appropriated to the foundation for the purposes of ORS 173.500, except that moneys received under*  
 35 *ORS 292.047 and credited to the Oregon State Capitol Foundation Fund are continuously appropriated*  
 36 *for the purposes of ORS 173.500 (2)(e).]*

37 *[(3)]* **(2)** The Legislative Administration Committee may on behalf of the State of Oregon solicit  
 38 and accept gifts, grants and donations from public and private sources for the purposes set out in  
 39 ORS 276.002. Such gifts, grants and donations shall be deposited by the committee in separate, ap-  
 40 propriate trust accounts until such time as required to meet the obligations for which the gifts,  
 41 grants or donations were intended. *[When so required, the committee shall deposit the amounts in the*  
 42 *Oregon State Capitol Foundation Fund, subject to any limitations imposed by the donors.]*

43 *[(4)]* **(3)** A gift or donation to the Legislative Administration Committee *[or to the Oregon State*  
 44 *Capitol Foundation]* is a gift or donation to the State of Oregon.

45 **SECTION 3.** ORS 292.047 is amended to read:

1           292.047. Any state official authorized to disburse funds in payment of salaries or wages of state  
 2 officers or employees is authorized, upon written request of the officer or employee, to deduct each  
 3 month from the salary or wages of the officer or employee the amount of moneys designated by the  
 4 officer or employee for payment to *[the Oregon State Capitol Foundation Fund created under ORS*  
 5 *276.003 or to an organization created by]* the Oregon State Capitol Foundation under ORS 173.500  
 6 *[(3)(d)]*. Moneys deducted from salaries or wages under this section shall be paid over promptly and  
 7 as directed by the Oregon State Capitol Foundation, *[to either the Oregon State Capitol Foundation*  
 8 *Fund or to the organization created by the foundation under ORS 173.500 (3)(d),]* to be used solely for  
 9 the purposes set forth in ORS 173.500 (2)(e). Subject to any rules adopted by the Oregon Depart-  
 10 ment of Administrative Services, the state official authorized to disburse funds in payment of sala-  
 11 ries or wages may prescribe any procedure necessary to carry out this section.

12           **SECTION 4. The amendments to ORS 173.500, 276.003 and 292.047 by sections 1 to 3 of this**  
 13 **2015 Act become operative on September 1, 2015.**

14           **SECTION 5. (1) The Oregon State Capitol Foundation shall cease being an entity within**  
 15 **the legislative department on September 1, 2015.**

16           **(2) The Legislative Administrator and the members of the Oregon State Capitol Founda-**  
 17 **tion, as the foundation is composed as of the effective date of this 2015 Act, shall undertake**  
 18 **preparation for the Oregon State Capitol Foundation to become an Oregon nonprofit corpo-**  
 19 **ration organized under ORS chapter 65 on September 1, 2015, including but not limited to**  
 20 **preparing and filing articles of incorporation and other documents necessary or desirable for**  
 21 **the foundation to be a nonprofit corporation on and after September 1, 2015. The articles of**  
 22 **incorporation as drafted, and as thereafter amended, must be consistent with the terms of**  
 23 **ORS 173.500.**

24           **(3) For all purposes of succession and continuity:**

25           **(a) The Oregon State Capitol Foundation, as incorporated on September 1, 2015, shall be**  
 26 **the successor in interest to the foundation as it is composed and in existence on August 31,**  
 27 **2015, and shall undertake to complete any tasks and projects begun prior to September 1,**  
 28 **2015.**

29           **(b) The members of the foundation as of August 31, 2015, shall be the initial directors of**  
 30 **the board of directors of the foundation, as incorporated on September 1, 2015. Any nonvot-**  
 31 **ing members of the foundation as of August 31, 2015, shall serve as initial nonvoting mem-**  
 32 **bers of the board of directors of the foundation, as incorporated on September 1, 2015. Each**  
 33 **director of the board of directors of the foundation on September 1, 2015, shall serve the**  
 34 **duration of the term the member would have served if this section had not been enacted.**

35           **(c) All moneys held by the foundation as of August 31, 2015, shall be transferred to the**  
 36 **foundation as incorporated on September 1, 2015.**

37           **(d) All moneys in the Oregon State Capitol Foundation Fund on August 31, 2015, shall be**  
 38 **transferred to the foundation, as incorporated on September 1, 2015.**

39           **SECTION 6. This 2015 Act being necessary for the immediate preservation of the public**  
 40 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**  
 41 **on its passage.**