

# House Bill 2213

Sponsored by Representative VIAL (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**.

Creates Sunset Advisory Committee. Specifies membership of committee. Abolishes state agencies on specified dates and requires agencies subject to abolition to make report to committee. Requires committee to conduct performance evaluation of agencies based on specified criteria and make recommendations to Governor and Legislative Assembly relating to abolition, continuation or reorganization of agencies and other matters.

Appropriates moneys from General Fund to committee for purposes of Act.

Clarifies that agency may not adopt rule that conflicts with statute. Provides that agency may not rely on general statutory grant of authority to adopt rules that conflict with more specific statutory provisions or to adopt rules that modify protections, sanctions, eligibility or other matters governed by more specific statutory provisions.

Requires that agency notice of proposed rulemaking include copy of proposed rule or link to agency's website where copy of proposed rule may be found.

Requires audits of state agencies by Oregon Department of Administrative Services to determine if agencies have complied with statutory requirement that agencies review rules every five years.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to state agencies; creating new provisions; amending ORS 183.335 and 183.405; and declar-  
3 ing an emergency.

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

## STATE AGENCY SUNSET

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8 **SECTION 1. Committee created.** (1) **The Sunset Advisory Committee is created and con-**  
9 **sists of:**

10 (a) **Five members of the Senate appointed by the President of the Senate; and**

11 (b) **Five members of the House of Representatives appointed by the Speaker of the House.**

12 (2) **Members of the committee serve four-year terms. Members serve ex officio, and a**  
13 **vacancy occurs when a member ceases to be a member of the Legislative Assembly.**

14 (3) **If a vacancy occurs, the appropriate appointing authority shall appoint a person to**  
15 **serve for the remainder of the unexpired term.**

16 (4) **The committee shall elect a chairperson and vice chairperson as presiding officers.**

17 (5) **Seven members of the committee constitute a quorum. The committee may not take**  
18 **a final action or make a final recommendation unless it is approved by a vote of a majority**  
19 **of the members of the committee.**

20 (6) **A member of the committee is entitled to payment of compensation and expenses**  
21 **under ORS 171.072 from funds appropriated to the Legislative Assembly.**

22 **SECTION 2. Staff.** (1) **The Sunset Advisory Committee shall employ an executive director**  
23 **for the committee.**

24 (2) **The executive director shall employ persons necessary to carry out sections 1 to 14**

**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 of this 2017 Act with funds made available by the Legislative Assembly.

2 **SECTION 3. Agency report to committee.** Before January 1 of the calendar year imme-  
 3 diately preceding the year in which a state agency is scheduled to be abolished under section  
 4 14 of this 2017 Act, the state agency shall report to the Sunset Advisory Committee:

5 (1) Information regarding the application to the state agency of the criteria prescribed  
 6 by section 7 of this 2017 Act; and

7 (2) Any other information that the state agency considers appropriate or that is re-  
 8 quested by the committee.

9 **SECTION 4. Committee duties.** Before June 1 of the calendar year immediately preceding  
 10 the year in which a state agency is scheduled to be abolished under section 14 of this 2017  
 11 Act, the Sunset Advisory Committee shall:

12 (1) Review and take action necessary to verify the reports submitted by the state agency  
 13 under section 3 of this 2017 Act;

14 (2) Conduct a performance evaluation of the state agency based on the criteria prescribed  
 15 by section 7 of this 2017 Act and prepare a written report as described in section 6 of this  
 16 2017 Act; and

17 (3) Review the implementation of committee recommendations contained in the reports  
 18 presented to the Legislative Assembly during the preceding regular session.

19 **SECTION 5. Public hearings.** (1) Before January 1 of the calendar year in which a state  
 20 agency is scheduled to be abolished under section 14 of this 2017 Act, the Sunset Advisory  
 21 Committee shall conduct public hearings concerning but not limited to the application to the  
 22 state agency of the criteria prescribed by section 7 of this 2017 Act.

23 (2) The committee may hold the public hearings before the date specified in subsection  
 24 (1) of this section if the performance evaluation of the state agency required by section 4 of  
 25 this 2017 Act is complete and available to the public.

26 **SECTION 6. Committee report.** (1) At each odd-numbered year regular session of the  
 27 Legislative Assembly, the Sunset Advisory Committee shall present to the Legislative As-  
 28 sembly and the Governor a written report on the state agencies scheduled to be abolished  
 29 that year.

30 (2) In the report required by this section, the committee shall include:

31 (a) The committee's specific findings regarding each of the criteria prescribed by section  
 32 7 of this 2017 Act;

33 (b) The committee's recommendations described in section 8 of this 2017 Act; and

34 (c) Other information the committee considers necessary for a complete evaluation of  
 35 the state agency.

36 **SECTION 7. Criteria for review.** The Sunset Advisory Committee shall consider the fol-  
 37 lowing criteria in determining whether a public need exists for the continuation of a state  
 38 agency or for the performance of the functions of the state agency:

39 (1) The efficiency with which the state agency operates.

40 (2) The mission of the state agency, including the problem or need that the state agency  
 41 was intended to address, the extent to which the objectives have been achieved, any activities  
 42 undertaken by the state agency in addition to those allowed by statute and the state agency's  
 43 authority to undertake those activities.

44 (3) Whether there are less restrictive or alternative methods of regulation that could  
 45 adequately protect the public.

1 (4) The extent to which the jurisdiction of the state agency and the programs adminis-  
 2 tered by the state agency overlap or duplicate those of other state agencies and the extent  
 3 to which the programs administered by the state agency can be consolidated with the pro-  
 4 grams of other state agencies.

5 (5) Whether the state agency has recommended to the Legislative Assembly statutory  
 6 changes that benefit the public instead of the occupation, business or institution that the  
 7 state agency regulates.

8 (6) The promptness and effectiveness with which the state agency resolves complaints  
 9 concerning persons affected by the state agency.

10 (7) The extent to which the state agency has encouraged participation by the public in  
 11 making rules and decisions as opposed to participation solely by regulated persons, and the  
 12 extent to which the public participation has resulted in rules compatible with the objectives  
 13 of the state agency.

14 (8) The extent to which the state agency has complied with applicable requirements of:

15 (a) Agencies of the United States or of this state relating to equality of employment op-  
 16 portunity and the rights and privacy of individuals; and

17 (b) State law relating to purchasing goals and programs.

18 (9) The extent to which changes to the enabling statutes of the state agency are neces-  
 19 sary to allow the state agency to adequately comply with the criteria prescribed by this  
 20 section.

21 (10) The extent to which the state agency issues and enforces rules relating to potential  
 22 conflicts of interest of its employees.

23 (11) The extent to which the state agency follows record retention and management  
 24 practices that enable the state agency to respond efficiently to requests for public records.

25 (12) The effects of federal intervention or loss of federal funds if the state agency is  
 26 abolished.

27 **SECTION 8. Recommendations.** The Sunset Advisory Committee shall include in the  
 28 written report required by section 6 of this 2017 Act:

29 (1) Recommendations on the abolition, continuation or reorganization of each state  
 30 agency and on the need for continuing the functions of the state agency;

31 (2) Recommendations on the consolidation, transfer or reorganization of programs within  
 32 state agencies that are not under review if the programs duplicate functions performed in  
 33 state agencies under review;

34 (3) Recommendations on the funding levels for each state agency; and

35 (4) Proposed legislation necessary to carry out the committee's recommendations under  
 36 this section.

37 **SECTION 9. Monitoring of recommendations.** During each regular session, the staff of  
 38 the Sunset Advisory Committee shall monitor legislation affecting state agencies that have  
 39 undergone review under sections 1 to 14 of this 2017 Act and shall periodically report to the  
 40 members of the committee on proposed changes that would modify prior recommendations  
 41 of the committee.

42 **SECTION 10. Subpoena power.** (1) The Sunset Advisory Committee may issue process to  
 43 compel the attendance of witnesses and the production of books, records, papers and other  
 44 objects necessary or proper for the purposes of the committee proceedings.

45 (2) If a majority of the members of the committee directs the issuance of a subpoena,

1 the chairperson shall issue the subpoena in the name of the committee.

2 (3) A witness who attends a committee proceeding under process is entitled to the same  
3 mileage and per diem as a witness who appears before a grand jury in this state.

4 **SECTION 11. Assistance from and access to state agencies.** (1) State agencies shall assist  
5 the Sunset Advisory Committee upon request by the committee or the committee's staff.

6 (2) In carrying out its functions under sections 1 to 14 of this 2017 Act, the committee  
7 or its designated staff member may inspect the records, documents and files of any state  
8 agency.

9 **SECTION 12. Relocation of employees.** If an employee is displaced because a state agency  
10 is abolished or reorganized after review under sections 1 to 14 of this 2017 Act, the state  
11 agency and the Employment Department shall make a reasonable effort to relocate the dis-  
12 placed employee.

13 **SECTION 13. Review of proposed legislation creating regulatory agency.** (1) The Legisla-  
14 tive Fiscal Officer shall forward to the Sunset Advisory Committee each bill filed during a  
15 regular session that would create a new state agency with regulatory authority.

16 (2) The committee shall review a bill forwarded to the committee under this section to  
17 determine if:

18 (a) The proposed functions of the state agency could be performed by an existing state  
19 agency;

20 (b) The form of regulation proposed by the bill is the least restrictive form of regulation  
21 that will adequately protect the public;

22 (c) The bill provides for adequate public input relating to the regulatory function pro-  
23 posed by the bill; and

24 (d) The bill provides for adequate protection against conflicts of interest within the state  
25 agency.

26 (3) After reviewing a bill under this section, the committee shall forward a written  
27 comment on the legislation to the chairs of committees considering the bill.

28 **SECTION 14. Sunset schedule.** (1) The following agencies are abolished July 1, 2019:

29 (a) The Department of Education and the State Board of Education.

30 (b) The Higher Education Coordinating Commission, the Office of Community Colleges  
31 and Workforce Development and the Office of Student Access and Completion.

32 (c) The Teacher Standards and Practices Commission.

33 (d) The Department of Land Conservation and Development and the Land Conservation  
34 and Development Commission.

35 (2) The following agencies are abolished July 1, 2021:

36 (a) The Oregon Department of Administrative Services.

37 (b) The Water Resources Department and the Water Resources Commission.

38 (c) The State Forestry Department and the State Board of Forestry.

39 (d) The State Department of Fish and Wildlife and the State Fish and Wildlife Commis-  
40 sion.

41 (e) The Department of State Lands.

42 (3) The following agencies are abolished July 1, 2023:

43 (a) The Oregon Business Development Department and the Oregon Business Develop-  
44 ment Commission.

45 (b) The Department of Consumer and Business Services.

- 1 (c) The Bureau of Labor and Industries.
- 2 (d) The Employment Department.
- 3 (e) The State Department of Energy.
- 4 (4) The following agencies are abolished July 1, 2025:
- 5 (a) The Oregon Liquor Control Commission.
- 6 (b) The Department of Human Services.
- 7 (c) The Oregon Health Authority.
- 8 (d) The Department of Environmental Quality and the Environmental Quality Commis-
- 9 sion.
- 10 (e) The Department of Justice.
- 11 (5) The following agencies are abolished July 1, 2027:
- 12 (a) The Department of Corrections.
- 13 (b) The Department of Veterans' Affairs.
- 14 (c) The Oregon Youth Authority.
- 15 (d) The Columbia River Gorge Commission.
- 16 (6) The following agencies are abolished July 1, 2029:
- 17 (a) The Department of Transportation.
- 18 (b) The State Department of Agriculture.
- 19 (c) The Oregon Department of Aviation and the State Aviation Board.
- 20 (d) The Construction Contractors Board.
- 21 (7) The following agencies are abolished July 1, 2031:
- 22 (a) The Department of Revenue.
- 23 (b) The Public Employees Retirement System and Public Employees Retirement Board.
- 24 (8) The following agencies are abolished July 1, 2033:
- 25 (a) The Public Utility Commission.
- 26 (b) The Department of State Police.
- 27 (c) The Department of Public Safety Standards and Training and the Board on Public
- 28 Safety Standards and Training.

29 (9) The Sunset Advisory Committee shall establish a schedule for the purposes of sections  
 30 1 to 14 of this 2017 Act that provides for the abolishing of all other state agencies, as defined  
 31 in ORS 183.750, that are not specifically abolished under this section.

32 **SECTION 15.** There is appropriated to the Sunset Advisory Committee, for the biennium  
 33 beginning July 1, 2017, out of the General Fund, the amount of \$\_\_\_\_\_ for the purpose of  
 34 implementing sections 1 to 14 of this 2017 Act.

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36

**CONFORMITY OF RULES WITH STATUTES**

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38 **SECTION 16.** Section 17 of this 2017 Act is added to and made a part of ORS 183.325 to  
 39 183.410.

40 **SECTION 17.** (1) An agency may not adopt any rule that conflicts with a statute.  
 41 (2) An agency may not rely on a general statutory grant of authority to adopt rules that  
 42 conflict with more specific statutory provisions or to adopt rules that modify protections,  
 43 sanctions, eligibility or other matters governed by more specific statutory provisions.

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45

**ACCESS TO PROPOSED RULES**

**SECTION 18.** ORS 183.335 is amended to read:

183.335. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice of its intended action:

(a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which provides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

(b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the effective date;

(c) At least 28 days before the effective date, to persons who have requested notice pursuant to subsection (8) of this section; and

(d) Delivered only by electronic mail, at least 49 days before the effective date, to the persons specified in subsection (15) of this section.

(2)(a) The notice required by subsection (1) of this section must include:

(A) A caption of not more than 15 words that reasonably identifies the subject matter of the agency's intended action. The agency shall include the caption on each separate notice, statement, certificate or other similar document related to the intended action.

(B) An objective, simple and understandable statement summarizing the subject matter and purpose of the intended action in sufficient detail to inform a person that the person's interests may be affected, and the time, place and manner in which interested persons may present their views on the intended action.

(b) The agency shall include with the notice of intended action given under subsection (1) of this section:

(A) A citation of the statutory or other legal authority relied upon and bearing upon the promulgation of the rule;

(B) A citation of the statute or other law the rule is intended to implement;

(C) A statement of the need for the rule and a statement of how the rule is intended to meet the need;

(D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by the agency in considering the need for and in preparing the rule, and a statement of the location at which those documents are available for public inspection. The list may be abbreviated if necessary, and if so abbreviated there shall be identified the location of a complete list;

(E) A statement of fiscal impact identifying state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule and an estimate of that economic impact on state agencies, units of local government and the public. In considering the economic effect of the proposed action on the public, the agency shall utilize available information to project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected. For an agency specified in ORS 183.530, the statement of fiscal impact shall also include a housing cost impact statement as described in ORS 183.534;

(F) If an advisory committee is not appointed under the provisions of ORS 183.333, an explanation as to why no advisory committee was used to assist the agency in drafting the rule; and

(G) A request for public comment on whether other options should be considered for achieving the rule's substantive goals while reducing the negative economic impact of the rule on business.

(c) The Secretary of State may omit the information submitted under paragraph (b) of this subsection from publication in the bulletin referred to in ORS 183.360.

(d) When providing notice of an intended action under subsection [(1)(c)] (1) of this section, the agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or [an

1 *explanation of how the person may acquire a copy of the rule] a link to the agency’s website where*  
 2 **a copy of the rule may be found.** The copy of an amended rule shall show all changes to the rule  
 3 by striking through material to be deleted and underlining all new material, or by any other method  
 4 that clearly shows all new and deleted material.

5 (3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons  
 6 reasonable opportunity to submit data or views. Opportunity for oral hearing shall be granted upon  
 7 request received from 10 persons or from an association having not less than 10 members before the  
 8 earliest date that the rule could become effective after the giving of notice pursuant to subsection  
 9 (1) of this section. An agency holding a hearing upon a request made under this subsection shall give  
 10 notice of the hearing at least 21 days before the hearing to the person who has requested the  
 11 hearing, to persons who have requested notice pursuant to subsection (8) of this section and to the  
 12 persons specified in subsection (15) of this section. The agency shall publish notice of the hearing  
 13 in the bulletin referred to in ORS 183.360 at least 14 days before the hearing. The agency shall  
 14 consider fully any written or oral submission.

15 (b) If an agency is required to conduct an oral hearing under paragraph (a) of this subsection,  
 16 and the rule for which the hearing is to be conducted applies only to a limited geographical area  
 17 within this state, or affects only a limited geographical area within this state, the hearing shall be  
 18 conducted within the geographical area at the place most convenient for the majority of the resi-  
 19 dents within the geographical area. At least 14 days before a hearing conducted under this para-  
 20 graph, the agency shall publish notice of the hearing in the bulletin referred to in ORS 183.360 and  
 21 in a newspaper of general circulation published within the geographical area that is affected by the  
 22 rule or to which the rule applies. If a newspaper of general circulation is not published within the  
 23 geographical area that is affected by the rule or to which the rule applies, the publication shall be  
 24 made in the newspaper of general circulation published closest to the geographical area.

25 (c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the  
 26 State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by inmates  
 27 in the proposed adoption, amendment or repeal of any rule to written submissions.

28 (d) If requested by at least five persons before the earliest date that the rule could become ef-  
 29 fective after the agency gives notice pursuant to subsection (1) of this section, the agency shall  
 30 provide a statement that identifies the objective of the rule and a statement of how the agency will  
 31 subsequently determine whether the rule is in fact accomplishing that objective.

32 (e) An agency that receives data or views concerning proposed rules from interested persons  
 33 shall maintain a record of the data or views submitted. The record shall contain:

34 (A) All written materials submitted to an agency in response to a notice of intent to adopt,  
 35 amend or repeal a rule.

36 (B) A recording or summary of oral submissions received at hearings held for the purpose of  
 37 receiving those submissions.

38 (C) Any public comment received in response to the request made under subsection (2)(b)(G) of  
 39 this section and the agency’s response to that comment.

40 (D) Any statements provided by the agency under paragraph (d) of this subsection.

41 (4) Upon request of an interested person received before the earliest date that the rule could  
 42 become effective after the giving of notice pursuant to subsection (1) of this section, the agency shall  
 43 postpone the date of its intended action no less than 21 nor more than 90 days in order to allow the  
 44 requesting person an opportunity to submit data, views or arguments concerning the proposed  
 45 action. Nothing in this subsection shall preclude an agency from adopting a temporary rule pursuant

1 to subsection (5) of this section.

2 (5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or sus-  
3 pend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds  
4 practicable, if the agency prepares:

5 (a) A statement of its findings that its failure to act promptly will result in serious prejudice to  
6 the public interest or the interest of the parties concerned and the specific reasons for its findings  
7 of prejudice;

8 (b) A citation of the statutory or other legal authority relied upon and bearing upon the  
9 promulgation of the rule;

10 (c) A statement of the need for the rule and a statement of how the rule is intended to meet the  
11 need;

12 (d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by  
13 the agency in considering the need for and in preparing the rule, and a statement of the location  
14 at which those documents are available for public inspection; and

15 (e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS  
16 183.534.

17 (6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary  
18 and may be effective for a period of not longer than 180 days. The adoption of a rule under this  
19 subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to  
20 (4) of this section.

21 (b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary  
22 period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

23 (7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without  
24 prior notice or hearing if the amendment is solely for the purpose of:

25 (a) Changing the name of an agency by reason of a name change prescribed by law;

26 (b) Changing the name of a program, office or division within an agency as long as the change  
27 in name does not have a substantive effect on the functions of the program, office or division;

28 (c) Correcting spelling;

29 (d) Correcting grammatical mistakes in a manner that does not alter the scope, application or  
30 meaning of the rule;

31 (e) Correcting statutory or rule references; or

32 (f) Correcting addresses or telephone numbers referred to in the rules.

33 (8)(a) Any person may request in writing that an agency send to the person copies of the  
34 agency's notices of intended action issued under subsection (1) of this section. The person must  
35 provide an address where the person elects to receive notices. The address provided may be a postal  
36 mailing address or, if the agency provides notice by electronic mail, may be an electronic mailing  
37 address.

38 (b) A request under this subsection must indicate that the person requests one of the following:

39 (A) The person may request that the agency mail paper copies of the proposed rule and other  
40 information required by subsection (2) of this section to the postal mailing address.

41 (B) If the agency posts notices of intended action on a website, the person may request that the  
42 agency mail the information required by subsection (2)(a) of this section to the postal mailing ad-  
43 dress with a reference to the website where electronic copies of the proposed rule and other infor-  
44 mation required by subsection (2) of this section are posted.

45 (C) The person may request that the agency electronically mail the information required by



1 subsection (2)(a) of this section to the electronic mailing address, and either provide electronic  
 2 copies of the proposed rule and other information required by subsection (2) of this section or pro-  
 3 vide a reference to a website where electronic copies of the proposed rule and other information  
 4 required by subsection (2) of this section are posted.

5 (c) Upon receipt of any request under this subsection, the agency shall acknowledge the request,  
 6 establish a mailing list and maintain a record of all mailings made pursuant to the request. Agen-  
 7 cies may establish procedures for establishing the mailing lists and keeping the mailing lists current.  
 8 Agencies by rule may establish fees necessary to defray the costs of mailings and maintenance of  
 9 the lists.

10 (d) Members of the Legislative Assembly who receive notices under subsection (15) of this sec-  
 11 tion may request that an agency furnish paper copies of the notices.

12 (9) This section does not apply to rules establishing an effective date for a previously effective  
 13 rule or establishing a period during which a provision of a previously effective rule will apply.

14 (10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.161, 279A.250 to  
 15 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280,  
 16 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545,  
 17 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and  
 18 279C.800 to 279C.870 relating to public contracts and purchasing.

19 (11)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless adopted  
 20 in substantial compliance with the provisions of this section in effect on the date that the notice  
 21 required under subsection (1) of this section is delivered to the Secretary of State for the purpose  
 22 of publication in the bulletin referred to in ORS 183.360.

23 (b) In addition to all other requirements with which rule adoptions must comply, a rule is not  
 24 valid if the rule has not been submitted to the Legislative Counsel in the manner required by ORS  
 25 183.715.

26 (c) A rule is not subject to judicial review or other challenge by reason of failing to comply with  
 27 subsection (2)(a)(A) of this section.

28 (12)(a) Notwithstanding the provisions of subsection (11) of this section, but subject to paragraph  
 29 (b) of this subsection, an agency may correct its failure to substantially comply with the require-  
 30 ments of subsections (2) and (5) of this section in adoption of a rule by an amended filing, as long  
 31 as the noncompliance did not substantially prejudice the interests of persons to be affected by the  
 32 rule.

33 (b) An agency may use an amended filing to correct a failure to include a fiscal impact state-  
 34 ment in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct  
 35 an inaccurate fiscal impact statement, only if the agency developed the fiscal impact statement with  
 36 the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS  
 37 183.333.

38 (13) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an  
 39 agency need not be based upon or supported by an evidentiary record.

40 (14) When an agency has established a deadline for comment on a proposed rule under the pro-  
 41 visions of subsection (3)(a) of this section, the agency may not extend that deadline for another  
 42 agency or person unless the extension applies equally to all interested agencies and persons. An  
 43 agency shall not consider any submission made by another agency after the final deadline has  
 44 passed.

45 (15) The notices required under subsections (1) and (3) of this section must be given by the

1 agency to the following persons:

2 (a) If the proposed adoption, amendment or repeal results from legislation that was passed  
 3 within two years before notice is given under subsection (1) of this section, notice shall be given to  
 4 the legislator who introduced the bill that subsequently was enacted into law, and to the chair or  
 5 cochair of all committees that reported the bill out, except for those committees whose sole action  
 6 on the bill was referral to another committee.

7 (b) If the proposed adoption, amendment or repeal does not result from legislation that was  
 8 passed within two years before notice is given under subsection (1) of this section, notice shall be  
 9 given to the chair or cochair of any interim or session committee with authority over the subject  
 10 matter of the rule.

11 (c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given  
 12 to the Speaker of the House of Representatives and to the President of the Senate who are in office  
 13 on the date the notice is given.

14 (16)(a) Upon the request of a member of the Legislative Assembly or of a person who would be  
 15 affected by a proposed adoption, amendment or repeal, the committees receiving notice under sub-  
 16 section (15) of this section shall review the proposed adoption, amendment or repeal for compliance  
 17 with the legislation from which the proposed adoption, amendment or repeal results.

18 (b) The committees shall submit their comments on the proposed adoption, amendment or repeal  
 19 to the agency proposing the adoption, amendment or repeal.

20  
 21 **STATUTORY COMPLIANCE AUDITS**

22  
 23 **SECTION 19.** ORS 183.405 is amended to read:

24 183.405. (1) Not later than five years after adopting a rule, an agency shall review the rule for  
 25 the purpose of determining:

- 26 (a) Whether the rule has had the intended effect;
- 27 (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- 28 (c) Whether subsequent changes in the law require that the rule be repealed or amended; and
- 29 (d) Whether there is continued need for the rule.

30 (2) An agency shall utilize available information in complying with the requirements of sub-  
 31 section (1) of this section.

32 (3) If an agency appoints an advisory committee pursuant to ORS 183.333 for consideration of  
 33 a rule subject to the requirements of this section, the agency shall provide the advisory committee  
 34 with a report on a review of the rule conducted under this section.

35 (4) The provisions of this section do not apply to the amendment or repeal of a rule.

36 (5) The provisions of this section do not apply to:

- 37 (a) Rules adopted to implement court orders or the settlement of civil proceedings;
- 38 (b) Rules that adopt federal laws or rules by reference;
- 39 (c) Rules adopted to implement legislatively approved fee changes; or
- 40 (d) Rules adopted to correct errors or omissions.

41 **(6) The Attorney General shall take all action necessary to ensure that agencies repres-**  
 42 **ented by the Attorney General comply with the requirements of this section, including**  
 43 **sending reminders to the rules coordinator for each agency on a regular basis.**

44 **(7) The Oregon Department of Administrative Services shall conduct an annual audit of**  
 45 **all agencies to determine whether those agencies have complied with the requirements of**

1 **this section. The department shall prepare an annual report that lists agencies that have not**  
2 **complied with the requirements of this section and submit a copy of the report to the Leg-**  
3 **islative Assembly in the manner provided by ORS 192.245.**

4 **SECTION 20. The first audit required under ORS 183.405 (7) must be conducted by the**  
5 **Oregon Department of Administrative Services no later than January 1, 2019.**

6  
7 **CAPTIONS**  
8

9 **SECTION 21. The unit and section captions used in this 2017 Act are provided only for**  
10 **the convenience of the reader and do not become part of the statutory law of this state or**  
11 **express any legislative intent in the enactment of this 2017 Act.**

12  
13 **EMERGENCY CLAUSE**  
14

15 **SECTION 22. This 2017 Act being necessary for the immediate preservation of the public**  
16 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
17 **on its passage.**

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