

# House Bill 3321

Sponsored by Representative EVANS; Representative NOSSE

## SUMMARY

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

Requires nonprofit corporations that meet certain requirements, including receipt of public funds, to comply with open meetings law and public records law, to post copy of corporation's proposed annual budget to corporation's public website and to submit to and cooperate with audit. Subjects members of corporation's board of directors and officers and employees of corporation to government ethics standards.

Becomes operative January 1, 2018.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to nonprofit corporations that receive public funds; and declaring an emergency.

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

4 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 65.**

5 **SECTION 2. (1) As used in this section:**

6 (a) **"Public body" has the meaning given that term in ORS 174.109.**

7 (b) **"Public funds" means funds that an officer or employee of this state or of a political**  
8 **subdivision or public or municipal corporation of this state has custody of or controls by law**  
9 **or by virtue of the officer's or employee's office.**

10 (2) **A corporation that engages in business in this state is subject to the requirements**  
11 **of subsection (3) of this section if the corporation:**

12 (a) **Has gross annual revenues of more than \$100,000 or has 25 or more full-time or**  
13 **part-time employees;**

14 (b) **Receives public funds in any amount or receives a public benefit in the form of a tax**  
15 **credit or tax deduction that is available only to a corporation organized under this chapter;**  
16 **and**

17 (c)(A) **Performs a governmental function by means of a contract or another written del-**  
18 **egation of a governmental function; or**

19 (B) **Sets or implements a policy that controls or influences an expenditure, disbursement**  
20 **or distribution of public funds or that designates a recipient of public funds.**

21 (3)(a) **A corporation described in subsection (2) of this section shall:**

22 (A) **Hold meetings of the corporation's board of directors in accordance with ORS 192.610**  
23 **to 192.690.**

24 (B) **Post a copy of the corporation's proposed annual budget on the corporation's public**  
25 **website at least 30 days before the corporation takes action to adopt the budget. The budget**  
26 **must identify the source of any public funds in the budget and the expenditures the corpo-**  
27 **ration proposes to make from the public funds.**

28 (C) **Submit to and cooperate with audits of the corporation's finances conducted by the**

**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 Secretary of State or the public body that provided the corporation with public funds or by  
 2 designees of the Secretary of State or the public body.

3 (D) Make records that the corporation keeps under ORS 65.771 available in accordance  
 4 with ORS 192.410 to 192.505, except that the corporation may redact from a record informa-  
 5 tion that personally identifies a member or employee of the corporation, other than by first  
 6 and last name, before disclosing the record.

7 (b) A member of the board of directors of a corporation described in subsection (2) of this  
 8 section, or an officer or employee of the corporation, in addition to and not in lieu of pro-  
 9 visions in this chapter that govern the board member's, officer's or employee's conduct with  
 10 respect to the corporation, including but not limited to ORS 65.357, 65.361, 65.364, 65.367,  
 11 65.369 and 65.377, is subject to the provisions of ORS chapter 244. To the extent that a con-  
 12 flict exists between a provision of ORS chapter 65 described in this paragraph and a provision  
 13 of ORS chapter 244, the provisions of ORS chapter 65 described in this paragraph control.

14 (4) A public body that provides public funds or a public benefit of the type described in  
 15 subsection (2)(b) of this section to a corporation shall monitor the corporation's compliance  
 16 with subsection (3) of this section. The public body may designate or enter into an agreement  
 17 with another public body to carry out the public body's responsibilities under this subsection.

18 (5)(a) A corporation described in subsection (2) of this section that does not comply with  
 19 the provisions of subsection (3) of this section, at the discretion of the public body that  
 20 provided the corporation with public funds or a public benefit described in subsection (2)(b)  
 21 of this section, is subject to:

22 (A) A demand for repayment of public funds or the equivalent value of a public benefit  
 23 described in subsection (2)(b) of this section that the corporation received from a public body;  
 24 and

25 (B) A denial of public funds or a public benefit described in subsection (2)(b) of this sec-  
 26 tion for a period of 10 years.

27 (b) A public body that provides public funds or a public benefit described in subsection  
 28 (2)(b) of this section to a corporation may enter into an assurance of voluntary compliance  
 29 with the corporation before imposing a sanction described in paragraph (a) of this subsection.

30 (c) The Secretary of State shall, under ORS 65.647, administratively dissolve a corpo-  
 31 ration that shows a pattern of repeated violations of subsection (3) of this section or that  
 32 fails to comply with the terms of an assurance of voluntary compliance that a public body  
 33 negotiates with the corporation.

34 (d) A member of the board of directors or an officer of a corporation that the Secretary  
 35 of State administratively dissolves under paragraph (c) of this subsection may not serve as  
 36 a member of the board of directors or an officer of another corporation for a period of not  
 37 less than 10 years. The Secretary of State by rule shall specify procedures for enforcing the  
 38 provision described in this paragraph.

39 **SECTION 3.** (1) Section 2 of this 2017 Act becomes operative January 1, 2018.

40 (2) The Secretary of State and a public body that provides public funds or a public benefit  
 41 described in section 2 (2)(b) of this 2017 Act may adopt, as appropriate, rules, resolutions or  
 42 ordinances before the operative date specified in subsection (1) of this section that are nec-  
 43 essary to enable the Secretary of State or the public body to exercise, on and after the op-  
 44 erative date specified in subsection (1) of this section, all of the duties, functions and powers  
 45 conferred on the Secretary of State or the public body by section 2 of this 2017 Act.

1        **SECTION 4. This 2017 Act being necessary for the immediate preservation of the public**  
2        **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**  
3        **on its passage.**

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