

Requested by SENATE COMMITTEE ON GENERAL GOVERNMENT AND ACCOUNTABILITY

**PROPOSED AMENDMENTS TO
SENATE BILL 1022**

1 On page 1 of the printed bill, line 2, after ORS delete the rest of the line
2 and delete lines 3 through 9 and insert “184.406, 276.285, 284.706, 297.050,
3 297.070, 346.010, 346.020, 396.145 and 398.012; and repealing ORS 131.910,
4 171.857, 171.860, 173.610, 173.620, 173.630, 173.640, 182.560, 182.562, 182.565,
5 182.568, 182.570, 284.540, 284.600, 284.604, 284.608, 284.612, 284.615, 284.618,
6 284.622, 284.625, 284.628, 284.631, 284.633, 284.635, 292.907, 292.908, 292.912,
7 292.917, 346.085, 346.087, 346.089, 346.092, 396.600, 418.243 and 418.244.”.

8 Delete lines 12 through 31 and delete pages 2 through 20 and insert:
9

10 **“FINDINGS**

11
12 **“SECTION 1. The Legislative Assembly finds and declares that pe-**
13 **riodic review of state boards, commissions and other entities created**
14 **by statute is necessary to identify those that no longer meet or serve**
15 **the public purposes for which they were created. The Legislative As-**
16 **sembly further declares that the statutes amended or repealed by**
17 **sections 2 to 14 and 16 to 21 of this 2017 Act reflect a legislative de-**
18 **termination that the affected boards, commissions and other entities**
19 **are no longer needed and therefore are eliminated.**

20

21 **“OBSOLETE BOARDS, COMMISSIONS AND OTHER ENTITIES**

1 (Baseball Advisory Committee)

2
3 **“SECTION 2.** ORS 184.406 is amended to read:

4 “184.406. The Director of the Oregon Department of Administrative Ser-
5 vices may not execute a grant agreement authorized by ORS 184.404 until the
6 director has determined that:

7 “(1) The City of Portland has made a written request to the director to
8 execute and deliver the grant agreement;

9 “(2) A Major League Baseball franchise has agreed to locate and be based
10 in Portland and has entered into a legally binding commitment to remain in
11 Portland for at least the term of the grant agreement;

12 “(3) All funding to build the major league stadium that is not based on
13 the grant agreement has been committed;

14 “(4) No grantee is both a public body and a guarantor for the repayment
15 of bonds or other indebtedness that is to be repaid through use of grant
16 moneys; **and**

17 “(5) The Oregon Department of Administrative Services has [*provided*]
18 **prepared and submitted to the Legislative Assembly** a written report
19 regarding the estimated and actual incremental baseball tax revenues [*to,*
20 *and has solicited comments from, the advisory committee described in sub-*
21 *section (6) of this section*] relating to the following provisions of the proposed
22 grant agreement:

23 “(a) The methodology for estimating the incremental baseball tax reve-
24 nues;

25 “(b) The methodology for determining the actual incremental baseball tax
26 revenues; and

27 “(c) The requirement that estimated and actual incremental baseball tax
28 revenues be based on the Oregon personal income tax rates in effect when
29 the grant agreement is executed or for the period for which the taxes are
30 collected, whichever is greater, even if those rates are subsequently

1 reduced.[; and]

2 “[(6) *An advisory committee, consisting of two legislators appointed by the*
3 *President of the Senate, two legislators appointed by the Speaker of the House*
4 *of Representatives and one person appointed by the Governor, has reviewed the*
5 *provisions of the proposed grant agreement listed in subsection (5) of this sec-*
6 *tion.*]

7

8 **“(Board of Directors of the Oregon School for the Deaf)**

9

10 **“SECTION 3.** ORS 346.010 is amended to read:

11 “346.010. (1) Pursuant to rules of the State Board of Education, the Su-
12 perintendent of Public Instruction shall provide free training and education
13 services in a school located in Marion County for children who are deaf.

14 “(2) The Superintendent of Public Instruction shall indicate which facili-
15 ties shall serve as the Oregon School for the Deaf.

16 “(3) The superintendent may order a change in all or part in the purpose
17 and use of the facilities available under this section whenever the super-
18 intendent determines that a change in purpose and use will better enable the
19 state to meet its responsibilities for the education and training of children
20 who are deaf.

21 “(4) The school shall be operated primarily for the provision of education
22 and training services for children who are deaf who cannot be efficiently
23 served in other schools or programs.

24 “[(5) *The Board of Directors of the Oregon School for the Deaf may appeal*
25 *any decision of the Superintendent of Public Instruction made under this sec-*
26 *tion to the State Board of Education. An appeal under this subsection must*
27 *be filed with the State Board of Education within 60 days of the date of the*
28 *decision by the superintendent. The State Board of Education may uphold,*
29 *modify or overturn any decision of the superintendent under this section.*]

30 **“SECTION 4.** ORS 346.020 is amended to read:

1 “346.020. (1) The Superintendent of Public Instruction shall prescribe the
2 course of instruction for students enrolled in the school operated under ORS
3 346.010. The State Board of Education shall determine the procedures for
4 placement, development of services and operation of the school in conform-
5 ance with state and federal laws relating to children who are eligible for
6 special education and shall adopt the procedures by rule.

7 “(2) *[In consultation with the Board of Directors of the Oregon School for*
8 *the Deaf,]* The Superintendent of Public Instruction shall select a director for
9 the school. The superintendent may also select teachers and other personnel
10 necessary to manage the school in an effective and efficient manner or may
11 delegate the selection of teachers and other personnel to the director of the
12 school.

13 “(3) The Superintendent of Public Instruction shall have control over
14 persons enrolled in the school and shall direct their care and promote their
15 mental, moral and physical welfare.

16 “[4) *The Board of Directors of the Oregon School for the Deaf may appeal*
17 *a decision of the Superintendent of Public Instruction to the State Board of*
18 *Education if the decision was made under subsection (2) of this section and*
19 *relates to the selection or dismissal of the director of the school. An appeal*
20 *under this subsection must be filed with the State Board of Education within*
21 *60 days of the date of the decision by the superintendent. The State Board of*
22 *Education may uphold, modify or overturn any decision of the superintendent*
23 *under this section.]*

24 “**SECTION 5. ORS 346.085, 346.087, 346.089 and 346.092 are repealed.**

25

26 “**(Committee on Performance Excellence)**

27

28 “**SECTION 6.** ORS 297.050 is amended to read:

29 “297.050. The Division of Audits of the office of the Secretary of State
30 shall supply the Joint Legislative Audit Committee[, *the Committee on Per-*

1 *formance Excellence established in ORS 182.562]* and the Legislative Fiscal
2 Officer with a copy of each audit report made by or for the Division of Au-
3 dits.

4 **“SECTION 7.** ORS 297.070 is amended to read:

5 “297.070. (1) Performance and program audits of all state departments,
6 boards, commissions, institutions and state-aided institutions and agencies
7 shall be conducted on the basis of risk assessment and on standards estab-
8 lished by national recognized entities including, but not limited to, the
9 United States Government Accountability Office and the National Associ-
10 ation of State Auditors. The Secretary of State shall adopt and the Joint
11 Legislative Audit Committee shall approve rules specifying all criteria to be
12 considered for conducting a performance or program audit under this section.
13 The Secretary of State shall schedule the performance and program audits
14 as directed by the Joint Legislative Audit Committee.

15 “(2) The Secretary of State may subpoena witnesses, may require the
16 production of books and papers and rendering of reports in the manner and
17 form that the Secretary of State requires and may do all things necessary to
18 secure a full and thorough audit. The Secretary of State shall report, in
19 writing, to the Legislative Assembly as provided in ORS 192.245 [*and to the*
20 *Committee on Performance Excellence established in ORS 182.562]*. The report
21 shall include a copy of the report on each performance and program audit.

22 “(3) The Secretary of State, as State Auditor, shall contract with qualified
23 private sector auditors to conduct audits required by this section, unless the
24 Secretary of State determines that it is not practical or in the public interest
25 to do so. If the Secretary of State determines that it is not practical or in
26 the public interest to contract with qualified private sector auditors, after
27 notifying the Joint Legislative Audit Committee, the Secretary of State shall
28 employ auditors for that purpose and shall include in the written audit re-
29 port the circumstances that rendered it impractical or not in the public in-
30 terest to contract with qualified private sector auditors. All contracts for

1 conducting performance and program audits under this section shall be in a
2 form prescribed or approved by the Secretary of State. A copy of each com-
3 pleted contract shall be furnished to the Secretary of State and the Joint
4 Legislative Audit Committee. The Secretary of State shall employ or contract
5 with auditors upon terms and for compensation as the Secretary of State
6 determines are advantageous and advisable.

7 “(4) An audit conducted under contract as provided in subsection (3) of
8 this section shall be considered to be conducted by the Division of Audits for
9 purposes of ORS 297.020, 297.050 and 297.535.

10 “(5) If a person fails to comply with any subpoena issued under subsection
11 (2) of this section, a judge of the circuit court of any county, on application
12 of the Secretary of State, shall compel obedience by proceedings for contempt
13 as in the case of disobedience of the requirements of a subpoena issued from
14 the circuit court.

15 “(6) The Secretary of State may enter into an agreement with the de-
16 partment, board, commission, institution, state-aided institution or agency
17 that is the subject of a performance or program audit for payment of the
18 expenses incurred by the Secretary of State in conducting the audit. The
19 Emergency Board may also make funds available to the Division of Audits
20 to reimburse it for expenses incurred under this section.

21 “(7) As used in this section:

22 “(a) ‘Performance audit’ includes determining:

23 “(A) Whether an entity described in subsection (1) of this section that is
24 the subject of the audit is acquiring, protecting and using its resources eco-
25 nomically and efficiently;

26 “(B) The causes of inefficiencies or uneconomical practices; and

27 “(C) Whether the entity has complied with laws and regulations con-
28 cerning matters of economy and efficiency.

29 “(b) ‘Program audit’ includes determining:

30 “(A) The extent to which the desired results or benefits of a program es-

1 tablished by the Legislative Assembly or other authorizing body are being
2 achieved;

3 “(B) The extent to which the need for or objectives of an ongoing program
4 are necessary or relevant;

5 “(C) Whether the program complements, duplicates, overlaps or conflicts
6 with other related programs;

7 “(D) The effectiveness of organizations, programs, activities or functions;
8 and

9 “(E) Whether the entity described in subsection (1) of this section that is
10 the subject of the audit has complied with laws and regulations applicable
11 to the program.

12 **“SECTION 8. ORS 182.560, 182.562, 182.565, 182.568 and 182.570 are**
13 **repealed.**

14

15 **“(Governor’s Council on Oregon’s Economy)**

16

17 **“SECTION 9. ORS 284.540 is repealed.**

18

19 **“(Military Council)**

20

21 **“SECTION 10. ORS 396.145 is amended to read:**

22 “396.145. (1) The military staff of the Governor shall consist of the Chief
23 of Staff to the Governor[, *the Military Council*] and such personal aides-de-
24 camp as the Governor shall deem necessary.

25 “(2) The Adjutant General shall be Chief of Staff to the Governor.

26 “[*(3) The Military Council hereby is established as an advisory board to*
27 *the Governor for the purpose of advising the Governor in all matters of mili-*
28 *tary interest to the state. It shall consist of the Adjutant General and not fewer*
29 *than 6 nor more than 10 officers of the Oregon National Guard selected for*
30 *their knowledge of the service. The Oregon Army National Guard and the*

1 *Oregon Air National Guard shall be represented on the Military Council in*
2 *proportion to their total strength.]*

3 “[4] (3) Personal aides-de-camp to the Governor may be selected from the
4 commissioned officers of the Oregon National Guard or from reserve officers
5 of the Armed Forces of the United States who are residents of Oregon and
6 who are not serving on extended active duty. Officers detailed under this
7 section shall not be relieved from their ordinary duties except when actually
8 on duty with the Governor.

9 “[5] (4) The military staff of the Governor shall, in addition to its other
10 duties, perform such ceremonial functions and duties as the Governor may
11 prescribe.

12 **“SECTION 11.** ORS 398.012 is amended to read:

13 “398.012. (1) The Governor, on the recommendation of the Adjutant Gen-
14 eral, shall appoint an officer of the organized militia as State Judge Advo-
15 cate. To be eligible for appointment as State Judge Advocate, an officer
16 must:

17 “(a) Be a member in good standing of the Oregon State Bar;

18 “(b) Have been a member of the Oregon State Bar for at least five years;
19 and

20 “(c) Meet the qualifications for a judge advocate under the Uniform Code
21 of Military Justice, 10 U.S.C. 801 et seq.

22 “(2) The Adjutant General may appoint an officer of the organized militia
23 as an Assistant State Judge Advocate. The Adjutant General may appoint
24 as many Assistant State Judge Advocates as the Adjutant General deems
25 necessary. To be eligible for appointment as an Assistant State Judge Advo-
26 cate, an officer must:

27 “(a) Be a member in good standing of the Oregon State Bar; and

28 “(b) Meet the qualifications for a judge advocate under the Uniform Code
29 of Military Justice, 10 U.S.C. 801 et seq.

30 “(3)(a) The Adjutant General may appoint temporary Assistant State

1 Judge Advocates who are officers of the organized militia. An individual
2 appointed as a temporary Assistant State Judge Advocate has 12 months
3 from the date of appointment to become a member in good standing of the
4 Oregon State Bar and meet the qualifications for a judge advocate under the
5 Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

6 “(b) The legal services performed by a temporary Assistant State Judge
7 Advocate are limited to those legal services that may be performed by legal
8 assistants consistent with ORS 9.160.

9 “(c) A temporary Assistant State Judge Advocate who has met the re-
10 quirements under this subsection is eligible for appointment as an Assistant
11 State Judge Advocate.

12 “(d) The Adjutant General may extend, for an additional 12 months, the
13 time during which a temporary Assistant State Judge Advocate must meet
14 the qualifications described in paragraph (a) of this subsection.

15 “(4) The Adjutant General may appoint State Judge Advocate Legal As-
16 sistants for a period not to exceed 12 months. An individual appointed as a
17 State Judge Advocate Legal Assistant shall be an officer of the Oregon State
18 Defense Force and shall be legally trained but is not required to be admitted
19 to the practice of law by the Supreme Court of this state. The legal services
20 performed by a State Judge Advocate Legal Assistant are limited to those
21 legal services that may be performed by legal assistants consistent with ORS
22 9.160.

23 “(5) The State Judge Advocate, the Senior Force Judge Advocate, as de-
24 fined in the Oregon Code of Military Justice, or their assistants shall make
25 frequent inspections in the field for supervision of the administration of
26 military justice and general military legal matters.

27 “(6)(a) Convening authorities shall at all times communicate directly with
28 their judge advocate in matters relating to the administration of military
29 justice and general military legal matters.

30 “(b) The judge advocate of any command may communicate directly with

1 the judge advocate of a superior or subordinate command, or with the State
2 Judge Advocate or the Senior Force Judge Advocate, as defined in the
3 Oregon Code of Military Justice.

4 “(7) A person who has acted as member, military judge, trial counsel, as-
5 sistant trial counsel, defense counsel, assistant defense counsel or investi-
6 gating officer, or who has been a witness for either the prosecution or
7 defense in any case, may not later act as judge advocate to any reviewing
8 authority upon the same case.

9 “(8) A judicial officer, as defined by ORS 1.210, is not prohibited, by rea-
10 son of holding that office, from:

11 “(a) Performing all acts necessary or incumbent to the authorized exercise
12 of duties as a judge advocate [*or as a member of the Military Council*].

13 “(b) Being assigned as a judge advocate by the Adjutant General as ap-
14 pointed by the Governor as Commander in Chief under the Oregon Consti-
15 tution.

16

17 “(Natural Resources Policy Administrator)

18

19 “**SECTION 12. ORS 173.610, 173.620, 173.630 and 173.640 are repealed.**

20

21 “(Oregon Progress Board)

22

23 “**SECTION 13.** ORS 276.285 is amended to read:

24 “276.285. (1) It is the policy of the State of Oregon[, *in keeping with the*
25 *benchmark relating to public infrastructure and development adopted by the*
26 *Oregon Progress Board,*] to facilitate and encourage state agencies that own
27 real property and operate facilities to manage and develop these properties
28 in an effective and businesslike manner. The maintenance, preservation and
29 development of state-owned real property and facilities, including, but not
30 limited to, educational institutions, hospitals, parks, roads, libraries and fish

1 hatcheries is essential to enable the State of Oregon to meet the needs of its
2 citizens now and in the future. The purpose of chapter 452, Oregon Laws
3 1995, is to maintain and protect the investment of the State of Oregon in its
4 public infrastructure.

5 “(2) Any state agency that owns and operates real property or facilities
6 is authorized to establish a separate dedicated account in the State Treasury
7 for the purpose of paying the expenses of constructing, operating, maintain-
8 ing, repairing, replacing, equipping, improving, acquiring and disposing of
9 such real property and facilities. All moneys in an account established pur-
10 suant to this subsection are appropriated continuously to the agency for the
11 purposes described in this subsection. All interest earned on moneys in the
12 account shall be retained in and credited to the account.

13 “(3) Any state agency that owns or operates real property or facilities
14 may establish a rental program for the purpose of recovering and paying for
15 the costs, including debt service, of constructing, operating, maintaining,
16 repairing, replacing, equipping, improving and disposing of real property and
17 facilities consistent with the statutory authority of the state agency. All
18 revenues from such rental programs shall be deposited in the account estab-
19 lished pursuant to subsection (2) of this section.

20 “(4) Whenever a state agency that owns and operates real property and
21 facilities, and that has an established account under subsection (2) of this
22 section sells or leases real property, the proceeds from the sale or lease shall
23 be credited to the account established pursuant to subsection (2) of this
24 section, unless disposition of the proceeds is otherwise provided by law.

25 “(5) If a state agency that owns and operates real property and facilities
26 has other statutory authority to provide funding for real property and facil-
27 ity operation and management, the agency may use that authority in lieu of
28 or in addition to the provisions of this section.

29 “(6) When a state agency establishes an account pursuant to subsection
30 (2) of this section, the agency shall provide a report of the revenues to and

1 expenditures from the account as part of its budget submission to the Gov-
2 ernor and the Legislative Assembly under ORS chapter 291. The establish-
3 ment by state agencies of rental rates for real property or facilities pursuant
4 to this section shall be on a biennial basis as part of the budget development
5 process, but modification of the rates may be made during the interim be-
6 tween legislative sessions after a report to the Emergency Board of the pro-
7 posed rate modification.

8 **“SECTION 14.** ORS 284.706 is amended to read:

9 “284.706. (1) There is created the Oregon Innovation Council consisting
10 of the following voting members:

11 “(a) The Governor or the Governor’s designated representative, who shall
12 be chairperson of the council.

13 “(b) Seven members appointed by the Governor who are experienced en-
14 trepreneurs or investors or are engaged in the operations of Oregon traded
15 sector industries or Oregon growth businesses.

16 “(c) One member appointed by the Governor who is a representative of
17 an Oregon-based, generally accredited, not-for-profit private institution of
18 higher education.

19 “(d) One member appointed by the Governor who is a representative of
20 an Oregon-based, generally accredited [*public institution of higher education*
21 *as defined in ORS 284.633*] **community college or public university listed**
22 **in ORS 352.002.**

23 “(e) A member of the Oregon Growth Board, appointed by the board, who
24 is experienced in making direct investments in new growth-based companies.

25 “(f) A private sector member of the Oregon Talent Council.

26 “(g) The Director or an executive officer of the Oregon Business Devel-
27 opment Department.

28 “(h) The executive director of the Higher Education Coordinating Com-
29 mission.

30 “(i) The State Treasurer.

1 “(2)(a) The Speaker of the House of Representatives shall appoint two
2 members to the council who are members of the House of Representatives.

3 “(b) The President of the Senate shall appoint two members to the council
4 who are members of the Senate.

5 “(c) Members of the Legislative Assembly appointed to the council are
6 nonvoting members and may act in an advisory capacity only.

7 “(3) The presiding officer of the Oregon Business Development Commis-
8 sion shall serve as an ex officio, nonvoting member of the council.

9 “(4) The term of office of each appointed voting member of the council is
10 two years, but an appointed member serves at the pleasure of the appointing
11 authority. Before the expiration of the term of an appointed voting member,
12 the appointing authority shall appoint a successor whose term begins on July
13 1 next following. An appointed member is eligible for reappointment for one
14 additional term. If there is a vacancy for any cause, the appointing authority
15 shall make an appointment to become immediately effective for the remain-
16 der of the unexpired term.

17 “(5) A majority of the voting members of the council constitutes a quorum
18 for the transaction of business.

19 “(6) Official action by the council requires the approval of a majority of
20 the voting members of the council.

21 “(7) The council shall meet at least four times per fiscal year at a place,
22 day and time determined by the chairperson. The council may also meet at
23 other times and places specified by a call of the chairperson or by written
24 request of a majority of the voting members of the council.

25 “(8) The council may adopt rules necessary for the operation of the
26 council.

27 “(9) The council shall establish an audit and accountability committee
28 that shall monitor performance of council contracts and benchmark Oregon’s
29 performance against nationally accepted innovation metrics.

30 “(10) The council may establish other committees and delegate to the

1 committees duties as the council considers desirable.

2 “(11) The Oregon Business Development Department shall provide staff
3 support to the council.

4 “(12) Members of the council who are members of the Legislative Assem-
5 bly are entitled to compensation and expense reimbursement as provided in
6 ORS 171.072.

7 “(13) Members of the council who are not members of the Legislative
8 Assembly are entitled to compensation and expenses incurred by them in the
9 performance of their official duties in the manner and amounts provided for
10 in ORS 292.495. Claims for compensation and expenses of members of the
11 council who are public officers shall be paid out of funds appropriated to the
12 public agency that employs the member. Claims for compensation and ex-
13 penses of members of the council who are not public officers shall be paid
14 out of funds appropriated to the Oregon Business Development Department
15 for that purpose.

16 “(14) All agencies of state government, as defined in ORS 174.111, are di-
17 rected to assist the council in the performance of its duties and, to the extent
18 permitted by laws relating to confidentiality, to furnish such information and
19 advice as the members of the council consider necessary to perform their
20 duties.

21 **“SECTION 15. (1) The Oregon Progress Board Fund is abolished.**

22 **“(2) Any moneys remaining in the Oregon Progress Board Fund on**
23 **the effective date of this 2017 Act shall be transferred to the General**
24 **Fund and shall be available for expenditure for any purpose for which**
25 **General Fund moneys may be expended.**

26 **“SECTION 16. ORS 131.910, 284.600, 284.604, 284.608, 284.612, 284.615,**
27 **284.618, 284.622, 284.625, 284.628, 284.631, 284.633 and 284.635 are repealed.**

28

29 **“(Outdoor Youth Program Advisory Board)**

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