

# House Bill 2097

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Oregon Government Ethics Commission)

## 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**.

Permits Oregon Government Ethics Commission to issue commission advisory opinions, staff advisory opinions and written or oral advice on interpretation of lobbying laws.

## A BILL FOR AN ACT

1  
2 Relating to Oregon Government Ethics Commission advice on interpretation of lobbying laws; cre-  
3 ating new provisions; and amending ORS 171.776.

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

5 **SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made a part of ORS 171.725**  
6 **to 171.785.**

7 **SECTION 2. (1) Upon the written request of any person, or upon its own motion, the**  
8 **Oregon Government Ethics Commission, under signature of the chairperson, may issue and**  
9 **publish written commission advisory opinions on the application of any provision of ORS**  
10 **171.725 to 171.785 to any proposed transaction or action or any actual or hypothetical cir-**  
11 **cumstance. A commission advisory opinion, and a decision by the commission to issue an**  
12 **advisory opinion on its own motion, must be approved by a majority of the members of the**  
13 **commission. Legal counsel to the commission shall review a proposed commission advisory**  
14 **opinion before the opinion is considered by the commission.**

15 **(2) Not later than 60 days after the date the commission receives the written request for**  
16 **a commission advisory opinion, the commission shall issue either the opinion or a written**  
17 **denial of the request. The written denial shall explain the reasons for the denial. The com-**  
18 **mission may ask the person requesting the advisory opinion to supply additional information**  
19 **the commission considers necessary to render the opinion. The commission, by vote of a**  
20 **majority of the members of the commission, may extend the 60-day deadline by one period**  
21 **not to exceed 60 days.**

22 **(3) Except as provided in this subsection, unless the commission advisory opinion is re-**  
23 **vised or revoked, the commission may not impose a penalty under ORS 171.992 on a person**  
24 **for any good faith action the person takes in reliance on an advisory opinion issued under**  
25 **this section. The commission may impose a penalty under ORS 171.992 on the person who**  
26 **requested the advisory opinion if the commission determines that the person omitted or**  
27 **misstated material facts in making the request.**

28 **SECTION 3. (1) Upon the written request of any person, the executive director of the**  
29 **Oregon Government Ethics Commission may issue and publish written staff advisory opin-**  
30 **ions on the application of any provision of ORS 171.725 to 171.785 to any proposed transaction**  
31 **or action or any actual or hypothetical circumstance.**

**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       (2) Not later than 30 days after the date the executive director receives the written re-  
 2       quest for a staff advisory opinion, the executive director shall issue either the opinion or a  
 3       written denial of the request. The written denial shall explain the reasons for the denial. The  
 4       executive director may ask the person requesting the advisory opinion to supply additional  
 5       information the executive director considers necessary to render the opinion. The executive  
 6       director may extend the 30-day deadline by one period not to exceed 30 days. The executive  
 7       director shall clearly designate an opinion issued under this section as a staff advisory  
 8       opinion.

9       (3)(a) Except as provided in paragraph (b) of this subsection, unless the staff advisory  
 10       opinion is revised or revoked, the commission may only issue a written letter of reprimand,  
 11       explanation or education for any good faith action a person takes in reliance on a staff ad-  
 12       visory opinion issued under this section.

13       (b) The commission may impose, for an action that is subject to a penalty and that is  
 14       taken in reliance on a staff advisory opinion issued under this section, a penalty under ORS  
 15       171.992 on the person who requested the opinion if the commission determines that the per-  
 16       son omitted or misstated material facts in making the request.

17       (4) At each regular meeting of the commission, the executive director shall report to the  
 18       commission on all staff advisory opinions issued since the last regular meeting of the com-  
 19       mission. The commission on its own motion may issue a commission advisory opinion under  
 20       section 2 of this 2019 Act on the same facts or circumstances that form the basis for any  
 21       staff advisory opinion.

22       **SECTION 4.** (1) Upon the written or oral request of any person, the executive director  
 23       or other staff of the Oregon Government Ethics Commission may issue written or oral staff  
 24       advice on the application of any provision of ORS 171.725 to 171.785 to any proposed trans-  
 25       action or action or any actual or hypothetical circumstance. Any written advice not desig-  
 26       nated as a staff advisory opinion under section 3 of this 2019 Act is considered staff advice  
 27       issued under this section.

28       (2) Before imposing any penalty under ORS 171.992, the commission may consider  
 29       whether the action that may be subject to penalty was taken in reliance on staff advice is-  
 30       sued under this section.

31       **SECTION 5.** ORS 171.776 is amended to read:

32       171.776. *[(1)]* In addition to the duties prescribed in ORS 171.772, the Oregon Government Ethics  
 33       Commission may make inquiries or investigations in the manner prescribed in ORS 171.778 with re-  
 34       spect to registrations, statements and reports filed under ORS 171.725 to 171.785, and with respect  
 35       to any alleged failure to register or to file any statements or reports required under ORS 171.725  
 36       to 171.785, and upon signed complaint by any individual or on its own instigation, with respect to  
 37       apparent violation of any part of ORS 171.725 to 171.785.

38       *[(2) Upon written request of any lobbyist, lobbyist employer or any person, or upon its own motion,*  
 39       *the commission, under signature of the chairperson, may issue and publish opinions on the require-*  
 40       *ments of ORS 171.725 to 171.785, based on actual or hypothetical circumstances.]*

41       *[(3) If any lobbyist or lobbyist employer associated with the lobbyist is in doubt whether a proposed*  
 42       *transaction or action constitutes a violation of ORS 171.725 to 171.785, the lobbyist or lobbyist employer*  
 43       *may request in writing a determination from the commission. The requester shall supply such infor-*  
 44       *mation as the commission requests to enable it to issue the interpretation.]*

45       *[(4) A lobbyist or lobbyist employer associated with the lobbyist shall not be liable under ORS*

1 171.725 to 171.785 for any action or transaction carried out in accordance with an advisory interpre-  
2 tation issued under subsection (3) of this section. Such an advisory interpretation shall be considered  
3 a formal opinion having precedential effect and shall be subject to review by legal counsel to the com-  
4 mission before the interpretation is sent to the requester.]

5 **SECTION 6.** Sections 1 to 4 of this 2019 Act and the amendments to ORS 171.776 by sec-  
6 tion 5 of this 2019 Act apply to requests for advice or opinions on the application of ORS  
7 171.725 to 171.785 that are made on or after the effective date of this 2019 Act.

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