

House Bill 3161

Sponsored by Representative EVANS

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 directors and senior executives of businesses that receive \$10 million or more in public moneys over five year period to file statement of economic interest.

A BILL FOR AN ACT

1
2 Relating to disclosure of information from executives of businesses receiving public moneys; creating
3 new provisions; and amending ORS 244.020, 244.050, 244.060 and 244.090.

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

5 **SECTION 1.** ORS 244.020 is amended to read:

6 244.020. As used in this chapter, unless the context requires otherwise:

7 (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-
8 son acting in a capacity as a public official, the effect of which would be to the private pecuniary
9 benefit or detriment of the person or the person's relative or any business with which the person
10 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-
11 cumstances described in subsection (13) of this section.

12 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,
13 association, organization, self-employed individual and any other legal entity operated for economic
14 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section
15 501(c) of the Internal Revenue Code with which a public official or a relative of the public official
16 is associated only as a member or board director or in a nonremunerative capacity.

17 (3) "Business with which the person is associated" means:

18 (a) Any private business or closely held corporation of which the person or the person's relative
19 is a director, officer, owner or employee, or agent or any private business or closely held corpo-
20 ration in which the person or the person's relative owns or has owned stock, another form of equity
21 interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding cal-
22 endar year;

23 (b) Any publicly held corporation in which the person or the person's relative owns or has
24 owned \$100,000 or more in stock or another form of equity interest, stock options or debt instru-
25 ments at any point in the preceding calendar year;

26 (c) Any publicly held corporation of which the person or the person's relative is a director or
27 officer; or

28 (d) For public officials required to file a statement of economic interest under ORS 244.050, any
29 business listed as a source of income as required under ORS 244.060 (3).

30 (4) "Candidate" means an individual for whom a declaration of candidacy, nominating petition
31 or certificate of nomination to public office has been filed or whose name is printed on a ballot or

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 is expected to be or has been presented, with the individual's consent, for nomination or election to
2 public office.

3 (5) "Development commission" means any entity that has the authority to purchase, develop,
4 improve or lease land or the authority to operate or direct the use of land. This authority must be
5 more than ministerial.

6 (6) "First Partner" means the spouse or domestic partner of the Governor, or an individual who
7 primarily has a personal relationship with the Governor as determined by the Oregon Government
8 Ethics Commission by rule. "First Partner" encompasses any alternative title that the Governor may
9 publicly substitute for "First Partner," including, but not limited to, "First Lady," "First Husband"
10 or "First Spouse."

11 (7)(a) "Gift" means something of economic value given to a public official, a candidate or a rel-
12 ative or member of the household of the public official or candidate:

13 (A) Without valuable consideration of equivalent value, including the full or partial forgiveness
14 of indebtedness, which is not extended to others who are not public officials or candidates or the
15 relatives or members of the household of public officials or candidates on the same terms and con-
16 ditions; or

17 (B) For valuable consideration less than that required from others who are not public officials
18 or candidates.

19 (b) "Gift" does not mean:

20 (A) Contributions as defined in ORS 260.005.

21 (B) Gifts from relatives or members of the household of the public official or candidate.

22 (C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item,
23 wall memento or similar item, with a resale value reasonably expected to be less than \$25.

24 (D) Informational or program material, publications or subscriptions related to the recipient's
25 performance of official duties.

26 (E) Admission provided to or the cost of food or beverage consumed by a public official, a rel-
27 ative of the public official accompanying the public official, a member of the household of the public
28 official accompanying the public official or a staff member of the public official accompanying the
29 public official, at a reception, meal or meeting held by an organization when the public official re-
30 presents state government as defined in ORS 174.111, a local government as defined in ORS 174.116
31 or a special government body as defined in ORS 174.117.

32 (F) Reasonable expenses paid by any unit of the federal government, a state or local government,
33 a Native American tribe that is recognized by federal law or formally acknowledged by a state, a
34 membership organization to which a public body as defined in ORS 174.109 pays membership dues
35 or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue
36 Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the
37 public official is scheduled to deliver a speech, make a presentation, participate on a panel or rep-
38 resent state government as defined in ORS 174.111, a local government as defined in ORS 174.116
39 or a special government body as defined in ORS 174.117.

40 (G) Contributions made to a legal expense trust fund established under ORS 244.209 for the
41 benefit of the public official.

42 (H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the
43 public official accompanying the public official, a member of the household of the public official ac-
44 companying the public official or a staff member of the public official accompanying the public offi-
45 cial, when the public official is representing state government as defined in ORS 174.111, a local

1 government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

2 (i) On an officially sanctioned trade-promotion or fact-finding mission; or

3 (ii) In officially designated negotiations, or economic development activities, where receipt of the
4 expenses is approved in advance.

5 (I) Food or beverage consumed by a public official acting in an official capacity:

6 (i) In association with the review, approval, execution of documents or closing of a borrowing,
7 investment or other financial transaction, including any business agreement between state govern-
8 ment as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special govern-
9 ment body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

10 (ii) While engaged in due diligence research or presentations by the office of the State Treasurer
11 related to an existing or proposed investment or borrowing; or

12 (iii) While engaged in a meeting of an advisory, governance or policy-making body of a corpo-
13 ration, partnership or other entity in which the office of the State Treasurer has invested moneys.

14 (J) Waiver or discount of registration expenses or materials provided to a public official or
15 candidate at a continuing education event that the public official or candidate may attend to satisfy
16 a professional licensing requirement.

17 (K) Expenses provided by one public official to another public official for travel inside this state
18 to or from an event that bears a relationship to the receiving public official's office and at which
19 the official participates in an official capacity.

20 (L) Food or beverage consumed by a public official or candidate at a reception where the food
21 or beverage is provided as an incidental part of the reception and no cost is placed on the food or
22 beverage.

23 (M) Entertainment provided to a public official or candidate or a relative or member of the
24 household of the public official or candidate that is incidental to the main purpose of another event.

25 (N) Entertainment provided to a public official or a relative or member of the household of the
26 public official where the public official is acting in an official capacity while representing state
27 government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special
28 government body as defined in ORS 174.117 for a ceremonial purpose.

29 (O) Anything of economic value offered to or solicited or received by a public official or candi-
30 date, or a relative or member of the household of the public official or candidate:

31 (i) As part of the usual and customary practice of the person's private business, or the person's
32 employment or position as a volunteer with a private business, corporation, partnership,
33 proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or
34 other legal entity operated for economic value; and

35 (ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for,
36 the official position or public office.

37 (P) Reasonable expenses paid to a public school employee for accompanying students on an ed-
38 ucational trip.

39 (8) "Honorarium" means a payment or something of economic value given to a public official in
40 exchange for services upon which custom or propriety prevents the setting of a price. Services in-
41 clude, but are not limited to, speeches or other services rendered in connection with an event.

42 (9) "Income" means income of any nature derived from any source, including, but not limited to,
43 any salary, wage, advance, payment, dividend, interest, rent, honorarium, return of capital,
44 forgiveness of indebtedness, or anything of economic value.

45 (10) "Legislative or administrative interest" means an economic interest, distinct from that of

1 the general public, in:

2 (a) Any matter subject to the decision or vote of the public official acting in the public official's
3 capacity as a public official; or

4 (b) Any matter that would be subject to the decision or vote of the candidate who, if elected,
5 would be acting in the capacity of a public official.

6 (11) "Member of the household" means any person who resides with the public official or can-
7 didate.

8 (12) "Planning commission" means a county planning commission created under ORS chapter 215
9 or a city planning commission created under ORS chapter 227.

10 (13) "Potential conflict of interest" means any action or any decision or recommendation by a
11 person acting in a capacity as a public official, the effect of which could be to the private pecuniary
12 benefit or detriment of the person or the person's relative, or a business with which the person or
13 the person's relative is associated, unless the pecuniary benefit or detriment arises out of the fol-
14 lowing:

15 (a) An interest or membership in a particular business, industry, occupation or other class re-
16 quired by law as a prerequisite to the holding by the person of the office or position.

17 (b) Any action in the person's official capacity which would affect to the same degree a class
18 consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or
19 other group including one of which or in which the person, or the person's relative or business with
20 which the person or the person's relative is associated, is a member or is engaged.

21 (c) Membership in or membership on the board of directors of a nonprofit corporation that is
22 tax-exempt under section 501(c) of the Internal Revenue Code.

23 (14) "Public office" has the meaning given that term in ORS 260.005.

24 (15) "Public official" means the First Partner and any person who, when an alleged violation
25 of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other
26 public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent,
27 irrespective of whether the person is compensated for the services.

28 **(16)(a) "Public partner" means any business or income-producing not-for-profit corpo-**
29 **ration that is tax exempt under section 501(c) of the Internal Revenue Code that has re-**
30 **ceived, over the previous five years, \$10 million or more in payment of public moneys.**

31 **(b) As used in this subsection, "payment of public moneys" includes:**

32 **(A) Payments for work performed on behalf of a public body;**

33 **(B) Grants awarded by a public body;**

34 **(C) Loans from a public body that were received at below market-rate; or**

35 **(D) Any other expenditure of public moneys that benefitted the business or not-for-profit**
36 **corporation.**

37 ~~[(16)]~~ (17) "Relative" means:

38 (a) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the
39 public official or candidate;

40 (b) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse
41 of the public official or candidate;

42 (c) Any individual for whom the public official or candidate has a legal support obligation;

43 (d) Any individual for whom the public official provides benefits arising from the public official's
44 public employment or from whom the public official receives benefits arising from that individual's
45 employment; or

1 (e) Any individual from whom the candidate receives benefits arising from that individual's em-
2 ployment.

3 [(17)] (18) "Statement of economic interest" means a statement as described by ORS 244.060 or
4 244.070.

5 [(18)] (19) "Zoning commission" means an entity to which is delegated at least some of the dis-
6 cretionary authority of a planning commission or governing body relating to zoning and land use
7 matters.

8 **SECTION 2.** ORS 244.050 is amended to read:

9 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
10 Government Ethics Commission a verified statement of economic interest as required under this
11 chapter:

12 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
13 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

14 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
15 judicial officer who does not otherwise serve as a judicial officer.

16 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

17 (d) The Deputy Attorney General.

18 (e) The Deputy Secretary of State.

19 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
20 Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the
21 House of Representatives.

22 (g) The president and vice presidents, or their administrative equivalents, in each public uni-
23 versity listed in ORS 352.002.

24 (h) The following state officers:

25 (A) Adjutant General.

26 (B) Director of Agriculture.

27 (C) Manager of State Accident Insurance Fund Corporation.

28 (D) Water Resources Director.

29 (E) Director of Department of Environmental Quality.

30 (F) Director of Oregon Department of Administrative Services.

31 (G) State Fish and Wildlife Director.

32 (H) State Forester.

33 (I) State Geologist.

34 (J) Director of Human Services.

35 (K) Director of the Department of Consumer and Business Services.

36 (L) Director of the Department of State Lands.

37 (M) State Librarian.

38 (N) Administrator of Oregon Liquor Control Commission.

39 (O) Superintendent of State Police.

40 (P) Director of the Public Employees Retirement System.

41 (Q) Director of Department of Revenue.

42 (R) Director of Transportation.

43 (S) Public Utility Commissioner.

44 (T) Director of Veterans' Affairs.

45 (U) Executive director of Oregon Government Ethics Commission.

- 1 (V) Director of the State Department of Energy.
- 2 (W) Director and each assistant director of the Oregon State Lottery.
- 3 (X) Director of the Department of Corrections.
- 4 (Y) Director of the Oregon Department of Aviation.
- 5 (Z) Executive director of the Oregon Criminal Justice Commission.
- 6 (AA) Director of the Oregon Business Development Department.
- 7 (BB) Director of the Office of Emergency Management.
- 8 (CC) Director of the Employment Department.
- 9 (DD) Chief of staff for the Governor.
- 10 (EE) Director of the Housing and Community Services Department.
- 11 (FF) State Court Administrator.
- 12 (GG) Director of the Department of Land Conservation and Development.
- 13 (HH) Board chairperson of the Land Use Board of Appeals.
- 14 (II) State Marine Director.
- 15 (JJ) Executive director of the Oregon Racing Commission.
- 16 (KK) State Parks and Recreation Director.
- 17 (LL) Public defense services executive director.
- 18 (MM) Chairperson of the Public Employees' Benefit Board.
- 19 (NN) Director of the Department of Public Safety Standards and Training.
- 20 (OO) Executive director of the Higher Education Coordinating Commission.
- 21 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 22 (QQ) Director of the Oregon Youth Authority.
- 23 (RR) Director of the Oregon Health Authority.
- 24 (SS) Deputy Superintendent of Public Instruction.
- 25 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 26 the Governor's office.
- 27 (j) Every elected city or county official.
- 28 (k) Every member of a city or county planning, zoning or development commission.
- 29 (L) The chief executive officer of a city or county who performs the duties of manager or prin-
- 30 cipal administrator of the city or county.
- 31 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 32 (n) Every member of a governing body of a metropolitan service district and the auditor and
- 33 executive officer thereof.
- 34 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 35 (p) The chief administrative officer and the financial officer of each common and union high
- 36 school district, education service district and community college district.
- 37 (q) Every member of the following state boards and commissions:
- 38 (A) Governing board of the State Department of Geology and Mineral Industries.
- 39 (B) Oregon Business Development Commission.
- 40 (C) State Board of Education.
- 41 (D) Environmental Quality Commission.
- 42 (E) Fish and Wildlife Commission of the State of Oregon.
- 43 (F) State Board of Forestry.
- 44 (G) Oregon Government Ethics Commission.
- 45 (H) Oregon Health Policy Board.

- 1 (I) Oregon Investment Council.
- 2 (J) Land Conservation and Development Commission.
- 3 (K) Oregon Liquor Control Commission.
- 4 (L) Oregon Short Term Fund Board.
- 5 (M) State Marine Board.
- 6 (N) Mass transit district boards.
- 7 (O) Energy Facility Siting Council.
- 8 (P) Board of Commissioners of the Port of Portland.
- 9 (Q) Employment Relations Board.
- 10 (R) Public Employees Retirement Board.
- 11 (S) Oregon Racing Commission.
- 12 (T) Oregon Transportation Commission.
- 13 (U) Water Resources Commission.
- 14 (V) Workers' Compensation Board.
- 15 (W) Oregon Facilities Authority.
- 16 (X) Oregon State Lottery Commission.
- 17 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
- 18 (Z) Columbia River Gorge Commission.
- 19 (AA) Oregon Health and Science University Board of Directors.
- 20 (BB) Capitol Planning Commission.
- 21 (CC) Higher Education Coordinating Commission.
- 22 (DD) Oregon Growth Board.
- 23 (EE) Early Learning Council.
- 24 (r) The following officers of the State Treasurer:
- 25 (A) Deputy State Treasurer.
- 26 (B) Chief of staff for the office of the State Treasurer.
- 27 (C) Director of the Investment Division.
- 28 (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 29 or 777.915 to 777.953.
- 30 (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
- 31 (u) Every member of a governing board of a public university listed in ORS 352.002.
- 32 (v) Every member of the board of directors of an authority created under ORS 465.600 to
- 33 465.621.
- 34 **(w) Every director and senior executive of a public partner.**
- 35 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 36 on a board or commission **and director or senior executive of a public partner** listed in sub-
- 37 section (1) of this section shall file with the Oregon Government Ethics Commission a statement of
- 38 economic interest as required under ORS 244.060, 244.070 and 244.090.
- 39 (3) By April 15 next after the filing deadline for the primary election, each candidate described
- 40 in subsection (1) of this section shall file with the commission a statement of economic interest as
- 41 required under ORS 244.060, 244.070 and 244.090.
- 42 (4) Not later than the 40th day before the date of the statewide general election, each candidate
- 43 described in subsection (1) of this section who will appear on the statewide general election ballot
- 44 and who was not required to file a statement of economic interest under subsections (1) to (3) of this
- 45 section shall file with the commission a statement of economic interest as required under ORS

1 244.060, 244.070 and 244.090.

2 (5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or
 3 appointed public officials **or who are directors or senior executives of a public partner** as of
 4 April 15 and to persons who are candidates on April 15.

5 (6) If a statement required to be filed under this section has not been received by the commis-
 6 sion within five days after the date the statement is due, the commission shall notify the public of-
 7 ficial, **director or senior executive of a public partner** or candidate and give the public official,
 8 **director or senior executive of a public partner** or candidate not less than 15 days to comply
 9 with the requirements of this section. If the public official, **director or senior executive of a public**
 10 **partner** or candidate fails to comply by the date set by the commission, the commission may impose
 11 a civil penalty as provided in ORS 244.350.

12 **SECTION 3.** ORS 244.060 is amended to read:

13 244.060. The statement of economic interest filed under ORS 244.050 shall be on a form pre-
 14 scribed by the Oregon Government Ethics Commission. The public official, **director or senior**
 15 **executive of a public partner** or candidate filing the statement shall supply the information re-
 16 quired by this section and ORS 244.090, as follows:

17 (1) The names of all positions as officer of a business and business directorships held by the
 18 public official, **director or senior executive of a public partner** or candidate or a member of the
 19 household of the public official, **director or senior executive of a public partner** or candidate
 20 during the preceding calendar year, and the principal address and a brief description of each busi-
 21 ness.

22 (2) All names under which the public official, **director or senior executive of a public partner**
 23 or candidate and members of the household of the public official, **director or senior executive of**
 24 **a public partner** or candidate do business and the principal address and a brief description of each
 25 business.

26 (3) The names, principal addresses and brief descriptions of the sources of income received
 27 during the preceding calendar year by the public official, **director or senior executive of a public**
 28 **partner** or candidate or a member of the household of the public official, **director or senior**
 29 **executive of a public partner** or candidate that produce 10 percent or more of the total annual
 30 household income.

31 (4)(a) A list of all real property in which the public official, **director or senior executive of a**
 32 **public partner** or candidate or a member of the household of the public official, **director or senior**
 33 **executive of a public partner** or candidate has or has had any personal, beneficial ownership in-
 34 terest during the preceding calendar year, any options to purchase or sell real property, including
 35 a land sales contract, and any other rights of any kind in real property located within the ge-
 36 ographic boundaries of the governmental agency of which the public official **or director or senior**
 37 **executive of a public partner** holds, or the candidate if elected would hold, an official position or
 38 over which the public official **or director or senior executive of a public partner** exercises, or
 39 the candidate if elected would exercise, any authority.

40 (b) This subsection does not require the listing of the principal residence of the public official,
 41 **director or senior executive of a public partner** or candidate.

42 (5) All expenses with an aggregate value exceeding \$50 received by the public official during the
 43 preceding calendar year when participating in a convention, mission, trip or other meeting described
 44 in ORS 244.020 (7)(b)(F), including the name and address of the organization, unit of government,
 45 tribe or corporation paying the expenses, the nature of the event and the date and amount of the

1 expense.

2 (6) All expenses with an aggregate value exceeding \$50 received by the public official during the
 3 preceding calendar year when participating in a mission, negotiations or economic development ac-
 4 tivities described in ORS 244.020 (7)(b)(H), including the name and address of the person paying the
 5 expenses, the nature of the event and the date and amount of the expenditure.

6 (7) All honoraria and other items allowed under ORS 244.042 with a value exceeding \$15 that
 7 are received by the public official, **director or senior executive of a public partner**, candidate or
 8 member of the household of the public official, **director or senior executive of a public partner**
 9 or candidate during the preceding calendar year, the provider of each honorarium or item and the
 10 date and time of the event for which the honorarium or item was received.

11 (8) The name, principal address and brief description of each source of income exceeding an
 12 aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate, or
 13 a member of the household of the public official or candidate, during the preceding calendar year,
 14 if the source of that income is derived from an individual or business that has a legislative or ad-
 15 ministrative interest or that has been doing business, does business or could reasonably be expected
 16 to do business with the governmental agency of which the public official holds, or the candidate if
 17 elected would hold, an official position or over which the public official exercises, or the candidate
 18 if elected would exercise, any authority.

19 **SECTION 4.** ORS 244.090 is amended to read:

20 244.090. (1) Each public official, **director or senior executive of a public partner** or candidate
 21 required to file a statement of economic interest under this chapter shall include on the statement
 22 the name of any compensated lobbyist who, during the preceding calendar year, was associated with
 23 a business with which the public official, **director or senior executive of a public partner** or
 24 candidate or a member of the household of the public official, **director or senior executive of a**
 25 **public partner** or candidate was also associated.

26 (2) Subsection (1) of this section does not apply if the only relationship between the public offi-
 27 cial, **director or senior executive of a public partner** or candidate and the lobbyist is that the
 28 public official, **director or senior executive of a public partner** or candidate and lobbyist hold
 29 stock in the same publicly traded corporation.

30 (3) As used in this section, “lobbyist” has the meaning given that term in ORS 171.725.

31 **SECTION 5. The amendments to ORS 244.020, 244.050, 244.060 and 244.090 by sections 1**
 32 **to 4 of this 2019 Act first apply to statements of economic interest that are required to be**
 33 **filed on or after the effective date of this 2019 Act.**

34