

**A-Engrossed**  
**House Bill 2788**

Ordered by the House April 8  
Including House Amendments dated April 8

Sponsored by Representatives SMITH DB, CLEM; Representatives BREESE-IVERSON, DRAZAN, EVANS, LEIF, LEVY, WILDE (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.

Prohibits Department of Justice from charging officers and agencies of state government for assistance rendered. Directs department to pay for costs of assistance rendered to officers and agencies of state government out of funds appropriated to department for that purpose. **Becomes operative on July 1, 2023.**

**Provides that department may not enter into or renew collective bargaining agreement that permits job classification or evaluation on basis of hours billed by attorney. Allows department to track billable hours only for purposes of reimbursement.**

**A BILL FOR AN ACT**

1  
2 Relating to the Department of Justice; creating new provisions; amending ORS 180.140, 180.160,  
3 180.170, 180.180 and 180.225; and repealing ORS 283.425.

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

5 **SECTION 1.** ORS 180.160 is amended to read:

6 180.160. [(1) *Subject to rules prescribed by the Attorney General, in rendering assistance to the*  
7 *respective officers, departments, boards and commissions of state government, and other public bodies,*  
8 *the Department of Justice may charge such officers, agencies and public bodies (including, when ap-*  
9 *propriate, the Department of Justice itself) separately for the cost of such assistance, said cost includ-*  
10 *ing, but not limited to salaries of assistants and administrative and clerical salaries, investigative*  
11 *services, and capital outlay; and shall also charge such officers, departments, boards, commissions or*  
12 *public bodies for other costs incurred and disbursements made pursuant to request or authorization in*  
13 *connection with such assistance, and not paid directly out of moneys appropriated or otherwise avail-*  
14 *able for expenditure by such officers, agencies or public bodies.]*

15 **(1) The Department of Justice may not charge the officers and agencies of state gov-**  
16 **ernment, as defined in ORS 174.111, for the cost of assistance rendered, including but not**  
17 **limited to salaries of assistants and administrative and clerical salaries, investigative ser-**  
18 **vices and capital outlay, or for other costs incurred and disbursements made in connection**  
19 **with the assistance. The department shall pay the costs of assistance rendered to officers**  
20 **and agencies of state government out of funds appropriated to the department for that pur-**  
21 **pose.**

22 **(2) The department may charge a public body other than state government, as defined in**  
23 **ORS 174.111, and its officers, for the cost of assistance rendered, including but not limited**  
24 **to salaries of assistants and administrative and clerical salaries, investigative services and**  
25 **capital outlay, and for other costs incurred and disbursements made in connection with 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 **assistance and not paid directly out of moneys appropriated or otherwise available for ex-**  
2 **penditure by the public body or its officers.**

3 [(2)] (3) The Department of Justice may not impose charges under subsection [(1)] (2) of this  
4 section at rates greater than the rates established for the biennium through the legislative budgeting  
5 process in the preceding odd-numbered year regular session of the Legislative Assembly unless the  
6 department first notifies the Joint Committee on Ways and Means, the Joint Interim Committee on  
7 Ways and Means or the Emergency Board.

8 **SECTION 2.** ORS 180.140 is amended to read:

9 180.140. (1) The Attorney General shall appoint the other assistants the Attorney General deems  
10 necessary to transact the business of the office, each to serve at the pleasure of the Attorney Gen-  
11 eral and perform such duties as the Attorney General may designate and for whose acts the Attor-  
12 ney General shall be responsible. Each assistant shall have full authority under the direction of the  
13 Attorney General to perform any duty required by law to be performed by the Attorney General.

14 (2) Each assistant so appointed shall be a person admitted to the practice of law by the Supreme  
15 Court of this state and shall qualify by taking the usual oath of office, conditioned upon the faithful  
16 performance of duties.

17 (3) The Attorney General may appoint temporary assistants for a period not to exceed 15  
18 months. Such temporary assistants shall be legally trained but are not required to be admitted to  
19 the practice of law by the Supreme Court of this state.

20 (4) Each assistant shall receive the salary fixed by the Attorney General, payable as other state  
21 salaries are paid. Each assistant so appointed shall devote the full time of the assistant to the  
22 business of the state, unless employment on a part-time basis is otherwise fixed by the Attorney  
23 General.

24 (5) Special legal assistants or private counsel may be employed by the Attorney General, under  
25 the direction and control of the Attorney General, in particular cases or proceedings, whenever the  
26 Attorney General deems it appropriate to protect the interests of the state. [*The cost of such special*  
27 *assistants or counsel shall be charged to the appropriate officer or agency pursuant to ORS 180.160.*]

28 (6) None of the provisions of this chapter prohibit the Attorney General or any of the Attorney  
29 General's full-time deputies or assistants from voluntarily representing, without compensation or  
30 expenditure of state resources, indigent clients referred by a nonprofit civil legal aid office or pro  
31 bono program.

32 **SECTION 3.** ORS 180.170 is amended to read:

33 180.170. The Department of Justice shall estimate in advance the expenses that it will incur  
34 during the biennium under ORS 180.160 and 180.340, and shall render to [*officers, departments,*  
35 *boards and commissions of state government and other*] public bodies, **other than agencies of state**  
36 **government, and their officers**, an invoice for their share of such expenses for periods within the  
37 biennium [*and in sufficient amounts to provide reasonable cash operating requirements for the Legal*  
38 *Division of the Department of Justice within the biennial period*]. Each officer[, *department, board or*  
39 *commission or other*] **or** public body shall pay to the credit of the Department of Justice Operating  
40 Account such invoice as an administrative expense from funds or appropriations available to it in  
41 the same manner as other claims against the [*state or*] public body are paid. If the estimated ex-  
42 penses for any officer[, *department, board, commission*] or public body are more or less than actual  
43 expenses for the period covered by the invoice, the difference shall be reflected in the next following  
44 estimate of expenses.

45 **SECTION 4.** ORS 180.180 is amended to read:

1 180.180. (1) The Department of Justice Operating Account is created in the General Fund.  
2 Moneys credited to the account are continuously appropriated to the Department of Justice for the  
3 purpose of paying expenses incurred by the department, including those incurred by the Division of  
4 Child Support, but not including expenses described in ORS 180.095, that are reimbursable from the  
5 Department of Justice Protection and Education Revolving Account.

6 (2) All moneys received by the Department of Justice pursuant to its activities, except those  
7 received and creditable to the Department of Justice Protection and Education Revolving Account,  
8 shall be deposited in the State Treasury to the credit of the Department of Justice Operating Ac-  
9 count.

10 (3)[(a) *Subject to paragraph (b) of this subsection,*] Subaccounts may be used in the Department  
11 of Justice Operating Account whenever the Department of Justice determines that operating needs  
12 of the department so require.

13 [(b) *The department shall deposit moneys received by the department from officers, departments,*  
14 *boards and commissions of state government under ORS 180.160 and 180.170 into a subaccount in the*  
15 *Department of Justice Operating Account.*]

16 (4) In order to facilitate financing the operating expenses of the Department of Justice described  
17 in subsection (1) of this section, with the approval of the Director of the Oregon Department of  
18 Administrative Services, the Department of Justice may at any time during the biennium transfer  
19 to the Department of Justice Operating Account any funds the department considers necessary, not  
20 to exceed \$800,000, from funds appropriated to the department for a biennial period. Funds trans-  
21 ferred under this subsection shall be retransferred from the Department of Justice Operating Ac-  
22 count to the appropriation from which the original transfer was made. The retransfers shall be  
23 accomplished prior to the last day of each biennial period.

24 [(5) *With the approval of the Director of the Oregon Department of Administrative Services, the*  
25 *Department of Justice may at any time during the biennium transfer from the subaccount described in*  
26 *subsection (3)(b) of this section to the General Fund any amounts the department determines will not*  
27 *be needed to meet the responsibilities imposed on the department under the current biennial budget or*  
28 *under any laws governing the department.*]

29 **SECTION 5.** ORS 180.225 is amended to read:

30 180.225. In any proceeding under the antitrust laws of the United States in which the state or  
31 any public body within the state is interested, the Attorney General may, in the discretion of the  
32 Attorney General, represent any such public body at its request[, *charging it for the cost of such*  
33 *representation pursuant to ORS 180.160*].

34 **SECTION 6.** **The Department of Justice may not enter into or renew a collective bar-**  
35 **gaining agreement that permits job classification or evaluation of the performance of attor-**  
36 **neys employed by the department on the basis of hours billed by the attorney. The**  
37 **department may track billable hours only as required to obtain reimbursement from the**  
38 **federal government or other sources.**

39 **SECTION 7.** ORS 283.425 is repealed.

40 **SECTION 8.** (1) The amendments to ORS 180.140, 180.160, 180.170, 180.180 and 180.225 by  
41 sections 1 to 5 of this 2021 Act and the repeal of ORS 283.425 by section 7 of this 2021 Act  
42 become operative July 1, 2023.

43 (2) The Department of Justice may take any action before the operative date specified in  
44 subsection (1) of this section to enable the department to exercise, on and after the operative  
45 date specified in subsection (1) of this section, all of the duties, functions and powers con-

1 **ferred on the department by the amendments to ORS 180.140, 180.160, 180.170, 180.180 and**  
2 **180.225 by sections 1 to 5 of this 2021 Act and the repeal of ORS 283.425 by section 7 of this**  
3 **2021 Act.**

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