

## FROM THE DESK OF SENATOR BOQUIST

### SENATE RULES

#### **2.01 Use of *Mason's Manual of Legislative Procedure*.**

*Mason's Manual of Legislative Procedure* shall apply to cases not provided for by the Oregon Constitution, the Senate Rules, custom of the Senate or statute.

#### **Mason's Legislative Manual 2020**

#### **Sec. 522 Members Voting on Questions Which They Have a Personal Interest**

1. It is the general rule that no members can vote on a question in which they have a direct personal or pecuniary interest. The right of members to represent their constituencies is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal. The rule is obviously not self enforcing and, unless the vote is challenged, members may vote as they choose. A member may vote regarding a matter when other members are included with that member in the motion, even though that person has a personal or pecuniary interest in the result, or the member may vote to increase salaries of all members. ...

*Par. 1:* Hughes, Sec 568-569; Cushing, Sec 41; Cushing's Legislative Assemblies, Sec 1789; Robert's, p. 345; Mass. Manual, p. 652; Buffington Wheel Co. v. Burnham (Iowa, 1883); Coles v. Williamsburgh (N.Y., 1833); People ex rel Ulster County Bd. Of Supervisors v. Kingston (N.Y., 1886); Melland v. Johanneson (N.D., 1968); Oregon ex rel. Rosenheim v. Hoyt (Ore., 1867); Bd. of Supervisors of Oconto County v. Hall (Wis. 1879).

#### **Senate Rule 3.33 Announcement of Conflict of Interest.**

(1) When involved in an actual or potential conflict of interest as defined by ORS 244.020, a member shall announce, on the Senate floor or in the committee meeting, the nature of the actual or potential conflict prior to voting on the issue giving rise to the actual or potential conflict.

#### **ORS 173.900 (10)**

Notwithstanding subsection (8) of this section, a member of the Joint Committee on Conduct shall be recused from service on a committee on conduct performing functions under Article IV, section 15, of the Oregon Constitution, if the facts and circumstances at issue could impair the member's ability to act impartially and without bias. In the event of a recusal, the appointing authority shall appoint an acting member until the functions performed under Article IV, section 15, of the Oregon Constitution, have been resolved. [2019 c.604 §1]

#### **ORS 244.040 (1)**

Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any

business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

#### **ORS 244.020 (1)**

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

#### **Mason's Manual of Legislative Procedures 1953**

##### **Sec. 522. Members May Not Vote on Questions in Which They Have a Personal Interest**

1. It is a general rule that no one can vote on a question in which he has a direct personal or pecuniary interest. The right of a member to represent his constituency, however, is of such major importance that a member should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal. This rule is obviously not self-enforcing and unless the vote is challenged the member may vote as he chooses. A member may vote regarding a matter when other members are included with him in the motion, even though he has a personal or pecuniary interest in the result, as where charges are preferred against a group, or he may vote to increase salaries of all of the members. ...

3. A member may not vote to give money or any direct financial benefit to himself. A member may not vote to award a contract to himself, or renew a note in his favor, or vote a salary to himself as an officer, but may vote to approve a contract between a city and a corporation of which he is an employee where there is no direct financial benefit to him.

4. Where the personal interest of a member in a question has been called to the attention of the body, even after the vote was taken, the vote has been disallowed. ...

##### *Paragraph 1—*

Sturgis, p, v8 ; Hughes, Sec. 569 ; Cushing, Sec. 41; Cushing's Legislative Assemblies, Sec. 1789: McQuillan on Municipal Corporations, Sec. 629; Mass. Manual, p. 652; Buffington etc. Co. v. Burnham (1883), 60 Iowa 493, 15 N.W. 282; Coles v. Williamsburgh (1833), 10 Wend. (N. Y.) 659; State v. Hoyt (1867), 2 Ore. 246; Aconta County v. Hall (also cited as Board of Supervisors v. Hall) (1879), 47 Wis. 207, 2 N.W. 291; People v. Kingston (1886), 101 N. Y. 82, 4 N.E. 348 ; Lonbat v. LeRoy (1884) , 15 Alb. (N.Y.) 1.

##### *Paragraph 3-*

Smith v. Los Angeles Imm. Assoc, (1889) , 78 Cal. 289, 20 Pac. 677; Jones v. Morrison (1883), 31 Minn. 140, 16 N.W. 854; County Court v. City of Grafton (also cited as Taylor City v. Grafton) (1945), 77 W. Va. 84, 86 S.E. 924; Sturgis, p. 58 ; Mass. Manual, p. 609.

##### *Paragraph 4--*

Jefferson. Sec. XVII; Cushing's Legislative Assemblies, Sec. 1790.