

House Bill 2692

Sponsored by Representative SCHARF; Representative WALLAN (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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes some laws about agency actions. (Flesch Readability Score: 61.2).
Modifies provisions relating to administrative law.

A BILL FOR AN ACT

1
2 Relating to administrative law; creating new provisions; amending ORS 183.333, 183.335, 183.355,
3 183.482 and 183.484; and repealing ORS 183.336.

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

5 **SECTION 1.** ORS 183.333 is amended to read:

6 183.333. (1) The Legislative Assembly finds and declares that it is the policy of this state that
7 whenever possible the public be involved in the development of public policy by agencies and in the
8 drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maxi-
9 mum extent possible before giving notice of intent to adopt a rule. **Before an agency gives notice**
10 **of intent to adopt a permanent rule that will result in new requirements, changes to com-**
11 **pliance obligations or increased costs for persons regulated by the agency, the agency shall**
12 **appoint an advisory committee as described in this section. Before an agency gives notice**
13 **of intent to adopt a rule that does not result in new requirements or changes to compliance**
14 **obligations for persons regulated by the agency, the agency may appoint an advisory committee**
15 or use any other means of obtaining public views that will assist the agency in drafting the rule.
16 The membership of an advisory committee appointed under this subsection must represent the in-
17 terests of persons and communities likely to be affected by the rule, **and must include at least as**
18 **many members who are representatives of regulated entities of the agency as there are**
19 **members who are not representatives of regulated entities.**

20 *[(2) Any agency in its discretion may develop a list of interested parties and inform those parties*
21 *of any issue that may be the subject of rulemaking and invite the parties to make comments on the is-*
22 *sue.]*

23 **(2) An advisory committee appointed under subsection (1) of this section may meet in**
24 **person or virtually, but meetings of the advisory committee must be open to the public and**
25 **include an opportunity for public comment.**

26 (3) If an agency appoints an advisory committee for consideration of a rule under subsection (1)
27 of this section, the agency shall seek the committee's recommendations on whether the rule will
28 have a fiscal impact, what the extent of that impact will be and whether the rule will have a sig-
29 nificant adverse impact on small businesses. If the committee indicates that the rule will have a
30 significant adverse impact on small businesses, the agency shall seek the committee's recommen-
31 dations on compliance with ORS 183.540.

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 (4) An agency shall consider an advisory committee's recommendations provided under sub-
2 section (3) of this section in preparing the statement of fiscal impact required by ORS 183.335
3 (2)(b)(E).

4 (5) If an agency does not appoint an advisory committee for consideration of a permanent rule
5 under subsection (1) of this section and 10 or more persons likely to be affected by the rule object
6 to the agency's statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an association with
7 at least 10 members likely to be affected by the rule objects to the statement, the agency shall ap-
8 point a fiscal impact advisory committee to provide recommendations on whether the rule will have
9 a fiscal impact and what the extent of that impact will be. The membership of the fiscal impact ad-
10 visory committee must represent the interests of persons and communities likely to be affected by
11 the rule. An objection under this subsection must be made not later than 14 days after the notice
12 required by ORS 183.335 (1) is given. If the agency determines that the statement does not ade-
13 quately reflect the rule's fiscal impact, the agency shall extend the period for submission of data or
14 views under ORS 183.335 (3)(a) by at least 20 days. The agency shall include any recommendations
15 from the committee in the record maintained by the agency for the rule.

16 (6) An agency may appoint the Small Business Rules Advisory Committee established in ORS
17 183.407 as the advisory committee or fiscal impact advisory committee for purposes of this section.

18 (7) Subsection (5) of this section does not apply to any rule adopted by an agency to comply with
19 a judgment or a settlement of a judicial proceeding.

20 (8) If an agency is required by law to appoint an advisory committee or a fiscal impact advisory
21 committee under this section, the agency may not appoint an officer, employee or other agent of the
22 agency to serve as a member of the advisory committee or fiscal impact advisory committee.

23 **(9) Any agency in its discretion may develop a list of interested parties and inform those**
24 **parties of any issue that may be the subject of rulemaking and invite the parties to make**
25 **comments on the issue.**

26 **SECTION 2.** ORS 183.335 is amended to read:

27 183.335. (1) Prior to the adoption, amendment or repeal of any rule, the agency shall give notice
28 of its intended action:

29 (a) In the manner established by rule adopted by the agency under ORS 183.341 (4), which pro-
30 vides a reasonable opportunity for interested persons to be notified of the agency's proposed action;

31 (b) In the bulletin referred to in ORS 183.360 at least 21 days prior to the *[effective]* date **the**
32 **rule is filed with the Secretary of State as provided in ORS 183.355;**

33 (c) At least 28 days before the *[effective]* date **the rule is filed with the Secretary of State**
34 **as provided in ORS 183.355**, to persons who have requested notice pursuant to subsection (8) of this
35 section; and

36 (d) Delivered only by electronic mail, at least 49 days before the *[effective]* date **the rule is filed**
37 **with the Secretary of State as provided in ORS 183.355**, to the persons specified in subsection
38 (15) of this section.

39 (2)(a) The notice required by subsection (1) of this section must include:

40 (A) A caption of not more than 15 words that reasonably identifies the subject matter of the
41 agency's intended action. The agency shall include the caption on each separate notice, statement,
42 certificate or other similar document related to the intended action.

43 (B) An objective, simple and understandable statement summarizing the subject matter and
44 purpose of the intended action in sufficient detail to inform a person that the person's interests may
45 be affected, and the time, place and manner in which interested persons may present their views on

1 the intended action.

2 (b) The agency shall include with the notice of intended action given under subsection (1) of this
 3 section:

4 (A) A citation of the statutory or other legal authority relied upon and bearing upon the
 5 promulgation of the rule;

6 (B) A citation of the statute or other law the rule is intended to implement;

7 (C) A statement of the need for the rule [*and a*], **a detailed description of the problem the**
 8 **agency is attempting to solve with the rule and a detailed** statement of how the rule is intended
 9 to meet the need **and solve the problem**;

10 (D) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
 11 the agency in considering the need for and in preparing the rule, and a statement of the location
 12 at which those documents are available for public inspection. The list may be abbreviated if neces-
 13 sary, and if so abbreviated there shall be identified the location of a complete list;

14 (E)(i) A statement of fiscal impact identifying state agencies, units of local government and the
 15 public that may be economically affected by the adoption, amendment or repeal of the rule and an
 16 estimate of that economic impact on state agencies, units of local government and the public. In
 17 considering the economic effect of the proposed action on the public, the agency shall utilize avail-
 18 able information to project any significant economic effect of that action on businesses [*which shall*
 19 *include a cost of compliance effect on small businesses affected.*] **and small businesses, including:**

20 **(I) An estimate of the number of businesses and small businesses subject to the proposed**
 21 **rule and identification of the types of businesses and industries subject to the proposed rule;**

22 **(II) A description of the projected reporting, recordkeeping and other administrative ac-**
 23 **tivities required for compliance with the proposed rule, including costs of professional ser-**
 24 **vices;**

25 **(III) An identification of equipment, supplies, labor and increased administration required**
 26 **for compliance with the proposed rule;**

27 **(IV) An analysis of opportunity costs associated with compliance with the proposed rule;**
 28 **and**

29 **(V) A description of the manner in which the agency proposing the rule involved small**
 30 **businesses in the development of the rule; and**

31 **(ii)** For an agency specified in ORS 183.530, the statement of fiscal impact [*shall*] **must** also
 32 include a housing cost impact statement as described in ORS 183.534;

33 (F) A statement identifying how adoption of the rule will affect racial equity in this state;

34 (G) If an advisory committee is not appointed under the provisions of ORS 183.333, an explana-
 35 tion as to why no advisory committee was used to assist the agency in drafting the rule; and

36 (H) **A description of alternative options the agency considered in developing the rule and**
 37 **a request for public comment on whether other options should be considered for achieving the rule's**
 38 **substantive goals while reducing the negative economic impact of the rule on business.**

39 (c) The Secretary of State may omit the information submitted under paragraph (b) of this sub-
 40 section from publication in the bulletin referred to in ORS 183.360.

41 (d) When providing notice of an intended action under subsection (1)(c) of this section, the
 42 agency shall provide a copy of the rule that the agency proposes to adopt, amend or repeal, or an
 43 explanation of how the person may acquire a copy of the rule. The copy of an amended rule shall
 44 show all changes to the rule by striking through material to be deleted and underlining all new
 45 material, or by any other method that clearly shows all new and deleted material.

1 (3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall give interested persons
2 reasonable opportunity to submit data or views. [*Opportunity for oral hearing shall be granted upon*
3 *request received from 10 persons or from an association having not less than 10 members before the*
4 *earliest date that the rule could become effective after the giving of notice pursuant to subsection (1)*
5 *of this section. An agency holding a hearing upon a request made under this subsection shall give*
6 *notice of the hearing at least 21 days before the hearing to the person who has requested the hearing,*
7 *to persons who have requested notice pursuant to subsection (8) of this section and to the persons*
8 *specified in subsection (15) of this section. The agency shall]* **An agency shall hold an oral hearing**
9 **on the proposed adoption, amendment or repeal and shall** publish notice of the hearing in the
10 bulletin referred to in ORS 183.360 at least [14] **15** days before the hearing. The agency shall con-
11 sider fully any written or oral submission.

12 (b) If [*an agency is required to conduct an oral hearing under paragraph (a) of this subsection,*
13 *and*] the rule for which the hearing is to be conducted applies only to a limited geographical area
14 within this state, or affects only a limited geographical area within this state, the hearing **required**
15 **under paragraph (a) of this subsection** shall be conducted within the geographical area at the
16 place most convenient for the majority of the residents within the geographical area. At least [14]
17 **15** days before a hearing conducted under this paragraph, the agency shall publish notice of the
18 hearing in the bulletin referred to in ORS 183.360 and in a newspaper of general circulation pub-
19 lished within the geographical area that is affected by the rule or to which the rule applies. If a
20 newspaper of general circulation is not published within the geographical area that is affected by
21 the rule or to which the rule applies, the publication shall be made in the newspaper of general
22 circulation published closest to the geographical area.

23 (c) Notwithstanding paragraph (a) of this subsection, the Department of Corrections and the
24 State Board of Parole and Post-Prison Supervision may adopt rules limiting participation by adults
25 in custody in the proposed adoption, amendment or repeal of any rule to written submissions.

26 (d) If requested by at least five persons before the earliest date that the rule could [*become ef-*
27 *fective*] **be adopted, amended or repealed** after the agency gives notice pursuant to subsection (1)
28 of this section, the agency shall provide a statement that identifies the objective of the rule and a
29 statement of how the agency will subsequently determine whether the rule is in fact accomplishing
30 that objective.

31 (e) An agency that receives data or views concerning proposed rules from interested persons
32 shall maintain a record of the data or views submitted. The record shall contain:

33 (A) All written materials submitted to an agency in response to a notice of intent to adopt,
34 amend or repeal a rule.

35 (B) A recording or summary of oral submissions received at hearings held for the purpose of
36 receiving those submissions.

37 (C) Any public comment received in response to the request made under subsection (2)(b)(H) of
38 this section and the agency's response to that comment.

39 (D) Any statements provided by the agency under paragraph (d) of this subsection.

40 (4) Upon request of an interested person received before the earliest date that the rule could
41 [*become effective*] **be adopted, amended or repealed** after the giving of notice pursuant to sub-
42 section (1) of this section, the agency shall postpone the date of its intended action no less than 21
43 nor more than 90 days in order to allow the requesting person an opportunity to submit data, views
44 or arguments concerning the proposed action. Nothing in this subsection shall preclude an agency
45 from adopting a temporary rule pursuant to subsection (5) of this section.

1 (5) Notwithstanding subsections (1) to (4) of this section, an agency may adopt, amend or sus-
 2 pend a rule without prior notice or hearing or upon any abbreviated notice and hearing that it finds
 3 practicable, if the agency prepares:

4 (a) A statement of its findings that its failure to act promptly will result in serious prejudice to
 5 the public interest or the interest of the parties concerned and the specific reasons for its findings
 6 of prejudice;

7 (b) A citation of the statutory or other legal authority relied upon and bearing upon the
 8 promulgation of the rule;

9 (c) A statement of the need for the rule and a statement of how the rule is intended to meet the
 10 need;

11 (d) A list of the principal documents, reports or studies, if any, prepared by or relied upon by
 12 the agency in considering the need for and in preparing the rule, and a statement of the location
 13 at which those documents are available for public inspection; and

14 (e) For an agency specified in ORS 183.530, a housing cost impact statement as defined in ORS
 15 183.534.

16 (6)(a) A rule adopted, amended or suspended under subsection (5) of this section is temporary
 17 and may be effective for a period of not longer than 180 days. The adoption of a rule under this
 18 subsection does not preclude the subsequent adoption of an identical rule under subsections (1) to
 19 (4) of this section.

20 (b) A rule temporarily suspended shall regain effectiveness upon expiration of the temporary
 21 period of suspension unless the rule is repealed under subsections (1) to (4) of this section.

22 (7) Notwithstanding subsections (1) to (4) of this section, an agency may amend a rule without
 23 prior notice or hearing if the amendment is solely for the purpose of:

24 (a) Changing the name of an agency by reason of a name change prescribed by law;

25 (b) Changing the name of a program, office or division within an agency as long as the change
 26 in name does not have a substantive effect on the functions of the program, office or division;

27 (c) Correcting spelling;

28 (d) Correcting grammatical mistakes in a manner that does not alter the scope, application or
 29 meaning of the rule;

30 (e) Correcting statutory or rule references;

31 (f) Correcting addresses or telephone numbers referred to in the rules; or

32 (g) Changing a term or phrase in order to conform with a change prescribed by law.

33 (8)(a) Any person may request in writing that an agency send to the person copies of the
 34 agency's notices of intended action issued under subsection (1) of this section. The person must
 35 provide an address where the person elects to receive notices. The address provided may be a postal
 36 mailing address or, if the agency provides notice by electronic mail, may be an electronic mailing
 37 address.

38 (b) A request under this subsection must indicate that the person requests one of the following:

39 (A) The person may request that the agency mail paper copies of the proposed rule and other
 40 information required by subsection (2) of this section to the postal mailing address.

41 (B) If the agency posts notices of intended action on a website, the person may request that the
 42 agency mail the information required by subsection (2)(a) of this section to the postal mailing ad-
 43 dress with a reference to the website where electronic copies of the proposed rule and other infor-
 44 mation required by subsection (2) of this section are posted.

45 (C) The person may request that the agency electronically mail the information required by

1 subsection (2)(a) of this section to the electronic mailing address, and either provide electronic
2 copies of the proposed rule and other information required by subsection (2) of this section or pro-
3 vide a reference to a website where electronic copies of the proposed rule and other information
4 required by subsection (2) of this section are posted.

5 (c) Upon receipt of any request under this subsection, the agency shall acknowledge the request,
6 establish a mailing list and maintain a record of all mailings made pursuant to the request. Agen-
7 cies may establish procedures for establishing the mailing lists and keeping the mailing lists current.
8 Agencies by rule may establish fees necessary to defray the costs of mailings and maintenance of
9 the lists.

10 (d) Members of the Legislative Assembly who receive notices under subsection (15) of this sec-
11 tion may request that an agency furnish paper copies of the notices.

12 (9) This section does not apply to rules establishing an effective date for a previously effective
13 rule or establishing a period during which a provision of a previously effective rule will apply.

14 (10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to 279A.161, 279A.250 to
15 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to 279B.240, 279B.270, 279B.275, 279B.280,
16 279C.360, 279C.365, 279C.370, 279C.375, 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545,
17 279C.550 to 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to 279C.670 and
18 279C.800 to 279C.870 relating to public contracts and purchasing.

19 (11)(a) Except as provided in paragraph (c) of this subsection, a rule is not valid unless adopted
20 in substantial compliance with the provisions of this section in effect on the date that the notice
21 required under subsection (1) of this section is delivered to the Secretary of State for the purpose
22 of publication in the bulletin referred to in ORS 183.360.

23 (b) In addition to all other requirements with which rule adoptions must comply, a rule other
24 than a rule amended for a purpose described in subsection (7) of this section is not valid if the rule
25 has not been submitted to the Legislative Counsel in the manner required by ORS 183.355 and
26 183.715.

27 (c) A rule is not subject to judicial review or other challenge by reason of failing to comply with
28 subsection (2)(a)(A) of this section.

29 (12)(a) Notwithstanding the provisions of subsection (11) of this section, but subject to paragraph
30 (b) of this subsection, an agency may correct its failure to substantially comply with the require-
31 ments of subsections (2) and (5) of this section in adoption of a rule by an amended filing, as long
32 as the noncompliance did not substantially prejudice the interests of persons to be affected by the
33 rule.

34 (b) An agency may use an amended filing to correct a failure to include a fiscal impact state-
35 ment in a notice of intended action, as required by subsection (2)(b)(E) of this section, or to correct
36 an inaccurate fiscal impact statement, only if the agency developed the fiscal impact statement with
37 the assistance of an advisory committee or fiscal impact advisory committee appointed under ORS
38 183.333.

39 (13) Unless otherwise provided by statute, the adoption, amendment or repeal of a rule by an
40 agency need not be based upon or supported by an evidentiary record.

41 (14) When an agency has established a deadline for comment on a proposed rule under the pro-
42 visions of subsection (3)(a) of this section, the agency may not extend that deadline for another
43 agency or person unless the extension applies equally to all interested agencies and persons. An
44 agency shall not consider any submission made by another agency after the final deadline has
45 passed.

1 (15) The notices required under subsections (1) and (3) of this section must be given by the
 2 agency to the following persons:

3 (a) If the proposed adoption, amendment or repeal results from legislation that was passed
 4 within two years before notice is given under subsection (1) of this section, notice shall be given to
 5 the legislator who introduced the bill that subsequently was enacted into law, and to the chair or
 6 cochairs of all committees that reported the bill out, except for those committees whose sole action
 7 on the bill was referral to another committee.

8 (b) If the proposed adoption, amendment or repeal does not result from legislation that was
 9 passed within two years before notice is given under subsection (1) of this section, notice shall be
 10 given to the chair or cochairs of any interim or session committee with authority over the subject
 11 matter of the rule.

12 (c) If notice cannot be given under paragraph (a) or (b) of this subsection, notice shall be given
 13 to the Speaker of the House of Representatives and to the President of the Senate who are in office
 14 on the date the notice is given.

15 (16)(a) Upon the request of a member of the Legislative Assembly or of a person who would be
 16 affected by a proposed adoption, amendment or repeal, the committees receiving notice under sub-
 17 section (15) of this section shall review the proposed adoption, amendment or repeal for compliance
 18 with the legislation from which the proposed adoption, amendment or repeal results.

19 (b) The committees shall submit their comments on the proposed adoption, amendment or repeal
 20 to the agency proposing the adoption, amendment or repeal.

21 **(17) If the statement of fiscal impact required under subsection (2)(b)(E) of this section**
 22 **indicates that the proposed adoption, amendment or repeal may have an economic impact**
 23 **of more than \$250,000 on any individual or more than \$5 million on the public in total, the**
 24 **agency shall submit a report in the manner described in ORS 192.245 to the Joint Committee**
 25 **on Ways and Means.**

26 **SECTION 3.** ORS 183.355 is amended to read:

27 183.355. (1) The Secretary of State shall by rule prescribe requirements for the manner and form
 28 for filing rules adopted, amended or repealed by agencies. The Secretary of State may refuse to ac-
 29 cept for filing any rules that do not comply with the requirements.

30 (2)(a) Each agency shall file with the office of the Secretary of State each rule adopted,
 31 **amended or repealed** by the agency.

32 **(b) The filing of a permanent rule must include a summary of public comments received**
 33 **by the agency about the rule and the agency's response to common public comments.**

34 [(b)] (c) Unless otherwise provided by rule adopted by the Secretary of State, an agency adopt-
 35 ing a rule incorporating published standards by reference is not required to file a copy of those
 36 standards with the Secretary of State if:

37 (A) The standards adopted are unusually voluminous and costly to reproduce; and

38 (B) The rule filed with the Secretary of State identifies the location of the standards so incor-
 39 porated and the conditions of their availability to the public.

40 (3) Each rule is effective [upon] **30 days after the date of filing** as required by subsection (2)
 41 of this section, except that:

42 (a) If a later effective date is required by **paragraph (c) or (d) of this subsection or another**
 43 **statute or specified in the rule, the later date is the effective date.**

44 (b) A temporary rule becomes effective upon filing with the Secretary of State, or at a desig-
 45 nated later date, [only] if the statement required by ORS 183.335 (5) is filed with the rule. The

1 agency shall take appropriate measures to make temporary rules known to the persons who may be
2 affected by them.

3 [(4) *When a rule is amended or repealed by an agency, the agency shall file the amendment or*
4 *notice of repeal with the Secretary of State.*]

5 [(5)] (4) A certified copy of each executive order issued, prescribed or promulgated by the Gov-
6 ernor shall be filed in the office of the Secretary of State.

7 [(6)] (5) A rule is not valid or effective against any person or party until the rule [*is filed*] **be-**
8 **comes effective** in accordance with this section. However, if an agency, in disposing of a contested
9 case, announces in its decision the adoption of a general policy applicable to the case and subse-
10 quent cases of like nature the agency may rely upon the decision in disposition of later cases.

11 [(7)] (6) The Secretary of State shall, upon request, supply copies of rules, or orders or desig-
12 nated parts of rules or orders, in the format requested, making and collecting therefor fees pre-
13 scribed by ORS 177.130. All receipts from the sale of copies shall be deposited in the State Treasury
14 to the credit of the Secretary of State Miscellaneous Receipts Account established under ORS
15 279A.290.

16 [(8)] (7) The Secretary of State shall establish and collect fees from agencies filing rules under
17 this section. The fees shall be established in amounts calculated to be necessary to generate reven-
18 ues adequate to pay costs incurred by the Secretary of State in performing the following duties that
19 are not paid for by subscriber fees or other fees prescribed by law:

20 (a) Publication of the compilation referred to in ORS 183.360 (1);

21 (b) Electronic publication of the bulletin referred to in ORS 183.360 (3); and

22 (c) Electronic publication of rules and other information relating to rules under ORS 183.365.

23 [(9)] (8) All fees collected under subsection [(8)] (7) of this section shall be deposited in the State
24 Treasury to the credit of the Secretary of State Miscellaneous Receipts Account established under
25 ORS 279A.290.

26 [(10)] (9) No later than 10 days after an agency files an adopted, amended or repealed rule with
27 the Secretary of State, other than a rule amended for a purpose described in ORS 183.335 (7), the
28 Secretary of State shall:

29 (a) Electronically transmit the rule to the Legislative Counsel in accordance with ORS 183.715;
30 and

31 (b) Provide to the agency that filed the rule a written confirmation that the rule was transmitted
32 to the Legislative Counsel.

33 **SECTION 4.** ORS 183.482 is amended to read:

34 183.482. (1) Jurisdiction for judicial review of contested cases is conferred upon the Court of
35 Appeals. Proceedings for review shall be instituted by filing a petition in the Court of Appeals. The
36 petition shall be filed within 60 days only following the date the order upon which the petition is
37 based is served unless otherwise provided by statute. If a petition for rehearing has been filed, then
38 the petition for review shall be filed within 60 days only following the date the order denying the
39 petition for rehearing is served. If the agency does not otherwise act, a petition for rehearing or
40 reconsideration shall be deemed denied the 60th day following the date the petition was filed, and
41 in such cases, petition for judicial review shall be filed within 60 days only following such date. Date
42 of service shall be the date on which the agency delivered or mailed its order in accordance with
43 ORS 183.470.

44 (2) The petition shall state the nature of the order the petitioner desires reviewed, and shall
45 state whether the petitioner was a party to the administrative proceeding, was denied status as a

1 party or is seeking judicial review as a person adversely affected or aggrieved by the agency order.
2 In the latter case, the petitioner shall, by supporting affidavit, state the facts showing how the
3 petitioner is adversely affected or aggrieved by the agency order. Before deciding the issues raised
4 by the petition for review, the Court of Appeals shall decide, from facts set forth in the affidavit,
5 whether or not the petitioner is entitled to petition as an adversely affected or an aggrieved person.
6 Copies of the petition shall be served by registered or certified mail upon the agency, and all other
7 parties of record in the agency proceeding.

8 (3)(a) The filing of the petition shall not stay enforcement of the agency order, but the agency
9 may do so upon a showing of:

10 (A) Irreparable injury to the petitioner; and

11 (B) A colorable claim of error in the order.

12 (b) When a petitioner makes the showing required by paragraph (a) of this subsection, the
13 agency shall grant the stay unless the agency determines that substantial public harm will result if
14 the order is stayed. If the agency denies the stay, the denial shall be in writing and shall specifically
15 state the substantial public harm that would result from the granting of the stay.

16 (c) When the agency grants a stay, the agency may impose such reasonable conditions as the
17 giving of a bond, irrevocable letter of credit or other undertaking and that the petitioner file all
18 documents necessary to bring the matter to issue before the Court of Appeals within specified rea-
19 sonable periods of time.

20 (d) Agency denial of a motion for stay is subject to review by the Court of Appeals under such
21 rules as the court may establish.

22 (4) Within 30 days after service of the petition, or within such further time as the court may
23 allow, the agency shall transmit to the reviewing court the original or a certified copy of the entire
24 record of the proceeding under review, but, by stipulation of all parties to the review proceeding,
25 the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may
26 be taxed by the court for the additional costs. The court may require or permit subsequent cor-
27 rections or additions to the record when deemed desirable. Except as specifically provided in this
28 subsection, the cost of the record shall not be taxed to the petitioner or any intervening party.
29 However, the court may tax such costs and the cost of agency transcription of record to a party
30 filing a frivolous petition for review.

31 (5) If, on review of a contested case, before the date set for hearing, application is made to the
32 court for leave to present additional evidence, and it is shown to the satisfaction of the court that
33 the additional evidence is material and that there were good and substantial reasons for failure to
34 present it in the proceeding before the agency, the court may order that the additional evidence be
35 taken before the agency upon such conditions as the court deems proper. The agency may modify
36 its findings and order by reason of the additional evidence and shall, within a time to be fixed by
37 the court, file with the reviewing court, to become a part of the record, the additional evidence,
38 together with any modifications or new findings or orders, or its certificate that the agency elects
39 to stand on its original findings and order, as the case may be.

40 (6) At any time subsequent to the filing of the petition for review and prior to the date set for
41 hearing the agency may withdraw its order for purposes of reconsideration. If an agency withdraws
42 an order for purposes of reconsideration, the agency shall, within such time as the court may allow,
43 affirm, modify or reverse its order. If the petitioner is dissatisfied with the agency action after
44 withdrawal for purposes of reconsideration, the petitioner may refile the petition for review and the
45 review shall proceed upon the revised order. An amended petition for review shall not be required

1 if the agency, on reconsideration, affirms the order or modifies the order with only minor changes.
 2 If an agency withdraws an order for purposes of reconsideration and modifies or reverses the order
 3 in favor of the petitioner, the court shall allow the petitioner costs, but not attorney fees, to be paid
 4 from funds available to the agency.

5 (7) Review of a contested case shall be confined to the record, and the court shall not substitute
 6 its judgment for that of the agency as to any issue of fact or agency discretion. In the case of dis-
 7 puted allegations of irregularities in procedure before the agency not shown in the record which, if
 8 proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a
 9 master appointed by the court to take evidence and make findings of fact upon them. The court shall
 10 remand the order for further agency action if the court finds that either the fairness of the pro-
 11 ceedings or the correctness of the action may have been impaired by a material error in procedure
 12 or a failure to follow prescribed procedure, including a failure by the presiding officer to comply
 13 with the requirements of ORS 183.417 (8).

14 (8)(a) The court may affirm, reverse or remand the order. If the court finds that the agency has
 15 erroneously interpreted a provision of law and that a correct interpretation compels a particular
 16 action, the court shall:

17 (A) Set aside or modify the order; or

18 (B) Remand the case to the agency for further action under a correct interpretation of the pro-
 19 vision of law.

20 (b) The court shall remand the order to the agency if the court finds the agency's exercise of
 21 discretion to be:

22 (A) Outside the range of discretion delegated to the agency by law;

23 (B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency
 24 practice, if the inconsistency is not explained by the agency; or

25 (C) Otherwise in violation of a constitutional or statutory provision.

26 (c) The court shall set aside or remand the order if the court finds that the order is not sup-
 27 ported by substantial evidence in the record. Substantial evidence exists to support a finding of fact
 28 when the record, viewed as a whole, would permit a reasonable person to make that finding.

29 **(d) The court shall set aside or remand the order if the court finds that the agency action**
 30 **or the findings or conclusions supporting the order were arbitrary or capricious.**

31 **SECTION 5.** ORS 183.484 is amended to read:

32 183.484. (1) Jurisdiction for judicial review of orders other than contested cases is conferred
 33 upon the Circuit Court for Marion County and upon the circuit court for the county in which the
 34 petitioner resides or has a principal business office. Proceedings for review under this section shall
 35 be instituted by filing a petition in the Circuit Court for Marion County or the circuit court for the
 36 county in which the petitioner resides or has a principal business office.

37 (2) Petitions for review shall be filed within 60 days only following the date the order is served,
 38 or if a petition for reconsideration or rehearing has been filed, then within 60 days only following
 39 the date the order denying such petition is served. If the agency does not otherwise act, a petition
 40 for rehearing or reconsideration shall be deemed denied the 60th day following the date the petition
 41 was filed, and in such case petition for judicial review shall be filed within 60 days only following
 42 such date. Date of service shall be the date on which the agency delivered or mailed its order in
 43 accordance with ORS 183.470.

44 (3) The petition shall state the nature of the petitioner's interest, the facts showing how the
 45 petitioner is adversely affected or aggrieved by the agency order and the ground or grounds upon

1 which the petitioner contends the order should be reversed or remanded. The review shall proceed
 2 and be conducted by the court without a jury.

3 (4) At any time subsequent to the filing of the petition for review and prior to the date set for
 4 hearing, the agency may withdraw its order for purposes of reconsideration. If an agency withdraws
 5 an order for purposes of reconsideration, it shall, within such time as the court may allow, affirm,
 6 modify or reverse its order. If the petitioner is dissatisfied with the agency action after withdrawal
 7 for purposes of reconsideration, the petitioner may refile the petition for review and the review shall
 8 proceed upon the revised order. An amended petition for review shall not be required if the agency,
 9 on reconsideration, affirms the order or modifies the order with only minor changes. If an agency
 10 withdraws an order for purposes of reconsideration and modifies or reverses the order in favor of
 11 the petitioner, the court shall allow the petitioner costs, but not attorney fees, to be paid from funds
 12 available to the agency.

13 (5)(a) The court may affirm, reverse or remand the order. If the court finds that the agency has
 14 erroneously interpreted a provision of law and that a correct interpretation compels a particular
 15 action, it shall:

16 (A) Set aside or modify the order; or

17 (B) Remand the case to the agency for further action under a correct interpretation of the pro-
 18 vision of law.

19 (b) The court shall remand the order to the agency if *[it]* **the court** finds the agency's exercise
 20 of discretion to be:

21 (A) Outside the range of discretion delegated to the agency by law;

22 (B) Inconsistent with an agency rule, an officially stated agency position, or a prior agency
 23 practice, if the inconsistency is not explained by the agency; or

24 (C) Otherwise in violation of a constitutional or statutory provision.

25 (c) The court shall set aside or remand the order if *[it]* **the court** finds that the order is not
 26 supported by substantial evidence in the record. Substantial evidence exists to support a finding of
 27 fact when the record, viewed as a whole, would permit a reasonable person to make that finding.

28 **(d) The court shall set aside or remand the order if the court finds that the agency action**
 29 **or the findings or conclusions supporting the order were arbitrary or capricious.**

30 (6) In the case of reversal the court shall make special findings of fact based upon the evidence
 31 in the record and conclusions of law indicating clearly all aspects in which the agency's order is
 32 erroneous.

33 **SECTION 6. Section 7 of this 2025 Act is added to and made a part of ORS chapter 183.**

34 **SECTION 7. The Oregon Department of Administrative Services, the Department of**
 35 **Justice and the Oregon Business Development Department shall collaborate to publish a**
 36 **guide to administrative rules designed for the general public.**

37 **SECTION 8. ORS 183.336 is repealed.**

38 **SECTION 9. The amendments to ORS 183.333, 183.335 and 183.355 by sections 1 to 3 of this**
 39 **2025 Act and the repeal of ORS 183.336 by section 8 of this 2025 Act apply to rules for which**
 40 **an agency gives notice of intended action under ORS 183.335 on or after the effective date**
 41 **of this 2025 Act.**

42 **SECTION 10. The amendments to ORS 183.482 and 183.484 by sections 4 and 5 of this 2025**
 43 **Act apply to orders served on or after the effective date of this 2025 Act.**