

LC 170
2016 Regular Session
12100-004
1/7/16 (DFY/ps)

D R A F T

SUMMARY

Authorizes Office of Small Business Assistance to perform duties with respect to county and municipal agencies and authorities. Authorizes office to refer small businesses to appropriate resources to answer questions posed by small businesses.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to the Office of Small Business Assistance; amending ORS 56.200, 56.203 and 56.206; and declaring an emergency.

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

SECTION 1. ORS 56.200 is amended to read:

56.200. As used in ORS 56.200 to 56.209:

(1) “Business” means any corporation, partnership, company, cooperative, sole proprietorship or other legal entity organized or operating for pecuniary or nonpecuniary gain.

(2) “Government agency” means:

(a) An agency of the executive department, as defined in ORS 174.112; or

(b) An agency or authority of a county of municipality.

[(1)] (3) “Small business” means a prospective, new or established business with 100 or fewer employees that is or will be located in Oregon.

[(2) “State agency” means an agency of the executive department, as defined in ORS 174.112.]

SECTION 2. ORS 56.203 is amended to read:

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.

56.203. (1) The Office of Small Business Assistance is established within the Office of Secretary of State. The Secretary of State shall employ and appoint personnel necessary to perform the functions and duties of the Office of Small Business Assistance.

(2) The Office of Small Business Assistance shall:

(a) Assist [state] **government** agencies with regulatory authority over small businesses to ensure that small businesses that are subject to audit, on-site inspection, compliance monitoring or compliance assistance efforts by [state] **government** agencies, or that receive enforcement-related communications from or have contacts with [state] **government** agencies with regulatory authority over small businesses, are provided with the means to comment on these interactions with [state] **government** agencies.

(b) Work with [state] **government** agencies for the purpose of facilitating interactions between small businesses and [state] **government** agencies, including but not limited to obtaining timely responses to small business inquiries and requests, and resolving issues that arise in the administrative, regulatory and enforcement functions of [state] **government** agencies with respect to small businesses.

(c) Work with small businesses and [state] **government** agencies to identify and recommend efficient, responsive and nonretaliatory processes for:

(A) Receiving concerns or complaints from small businesses regarding interactions with [state] **government** agencies;

(B) Participation of small businesses in general studies, conferences, inquiries or meetings that would improve the functioning of [state] **government** agencies with regulatory authority over small businesses;

(C) Identifying causes of unnecessary delays, inconsistencies in the administrative, regulatory and enforcement functions of [state] **government** agencies and inefficient uses of state resources; and

(D) Making recommendations for resolving issues and disputes that arise in the context of interactions between [state] **government** agencies and

small businesses.

(d) Upon receipt of a question from a small business relating to any aspect of starting, operating or winding up a small business, direct or refer the small business to an appropriate resource to answer the question.

(e) In carrying out the duties set forth in this section or in ORS 56.206 with respect to an agency or authority of a county or municipality, consult and coordinate with the ombudsman or similar office, if any, of the county or municipality.

(3) All [state] **government** agencies shall cooperate with and assist the Office of Small Business Assistance in the performance of its duties and functions.

(4) Writings and information provided to, and communications with, the Office of Small Business Assistance under subsection (2) of this section are confidential and exempt from disclosure under ORS 192.410 to 192.505, except as necessary to prepare the report required under ORS 56.206.

(5) The Secretary of State may adopt rules necessary to implement the provisions of ORS 56.200 to 56.209.

SECTION 3. ORS 56.206 is amended to read:

56.206. (1) In addition to the duties and responsibilities described in ORS 56.203, the Office of Small Business Assistance may, except as provided in subsection (2) of this section, conduct reviews and investigations of complaints received from small businesses with respect to interactions with [state] **government** agencies.

(2) The office may not review and investigate a complaint under this section if the office determines that:

(a) The complainant could reasonably be expected to use, or is using, an alternative remedy or recourse for the complaint;

(b) The complaint relates to a matter outside the jurisdiction of the office;

(c) The complaint was delayed too long to justify review and investigation;

(d) The complainant does not have sufficient personal interest in, or is not personally aggrieved or affected by the subject matter of, the complaint;

(e) The complaint is trivial, frivolous, vexatious or not made in good faith;

(f) The resources of the office are insufficient for adequate review and investigation of the complaint;

(g) The review and investigation of other complaints take precedence over the review and investigation of the complaint; or

(h) The complaint is the subject of pending litigation, a pending contested case proceeding under ORS chapter 183 or an agency action that could result in a contested case proceeding under ORS chapter 183.

(3) The office shall notify a complainant as to whether the office will review and investigate the complaint within 30 days of receiving the complaint.

(4) If the office has undertaken a review and investigation of the complaint:

(a) Upon the complainant's request, the office shall inform the complainant of the status of the review and investigation; and

(b) Upon conclusion of the review and investigation, the office shall:

(A) Inform the complainant of the office's conclusions and recommendations; and

(B) Provide the complainant with a copy of the report prepared under subsection (6) of this section.

(5) The office may make recommendations to a [state] **government** agency for resolution of a complaint made under this section and work with the **government** agency to resolve the complaint. The office may also contact and discuss a complaint with the administrative head of any [state] **government** agency, any [state] **government** agency manager, the Governor or any member of the public for the purpose of obtaining the cooperation and assistance of a [state] **government** agency with the complaint resolution process.

(6)(a) Upon completing the review and investigation of a complaint under

1 this section, the office shall prepare a report containing the office's conclu-
2 sions and recommendations.

3 (b) Before finalizing, and providing copies of, the report prepared under
4 this subsection, the office shall provide the [state] **government** agency that
5 is the subject of the report with a preliminary report.

6 (c) Upon receipt of the preliminary report, the [state] **government** agency
7 shall have not more than 15 days to comment on the report.

8 (d) If the [state] **government** agency chooses to comment on the prelim-
9 inary report, the final report shall include a section that contains the **gov-**
10 **ernment** agency's comments.

11 (e) The office shall provide copies of the final report prepared under this
12 subsection to the Secretary of State.

13 **SECTION 4. This 2016 Act being necessary for the immediate pres-**
14 **ervation of the public peace, health and safety, an emergency is de-**
15 **clared to exist, and this 2016 Act takes effect on its passage.**