Chapter 244 — Government Standards and Practices

2001 EDITION

GENERAL PROVISIONS

244.010 Policy

244.020 Definitions

244.030 Application

244.040 Code of ethics; prohibited actions; honoraria

244.045 Regulation of subsequent employment of public officials

REPORTING

244.050 Persons required to file statement of economic interest; filing deadline; civil penalty

244.055 Additional reporting requirements for State Treasury; confidentiality; effect of failure to comply with requirements

244.060 Form of statement of economic interest

244.070 When additional statement of economic interest required

244.080 Filing of different form allowed by rule

244.090 Report on association with compensated lobbyist

244.100 Disclosure of gifts or other compensation; exemptions from gift limitation; rules

244.110 Required statements subject to penalty for false swearing

244.115 Filing required for member of Congress or candidate; filing date

METHOD OF HANDLING ACTUAL OR POTENTIAL CONFLICTS

244.120 Methods of handling conflicts; generally; application to elected officials or members of boards

244.130 Recording of notice of conflict; effect of failure to disclose conflict; rules

244.135 Method of handling conflicts by planning commission members

APPLICATION OF REPORTING REQUIREMENTS TO LOCAL GOVERNMENTS

244.160 Application to political subdivisions except cities and counties

244.170 “Statement of economic interest” defined

244.180 When city officials required to file statement

244.190 When county officials required to file statement

244.195 Certain city and county officers to be informed of reporting requirements; effect of failure to inform

244.201 Election procedure for city or county

COMMISSION

244.250 Oregon Government Standards and Practices Commission; appointment; term; quorum; compensation; legal counsel

244.260 Confidential Preliminary Review Phase; Investigatory Phase; notice; findings; contested case or court proceedings

244.270 Findings as grounds for removal

244.280 Opinions; liability of person following interpretation

244.290 General duties of commission; rules

244.300 Status of records

244.310 Executive director; duties

244.320 Manual on government ethics; revision

244.330 Distribution of ethics manual to public officials; assistance of professional associations

244.340 Continuing education program required

244.345 Oregon Government Standards and Practices Commission Account

ENFORCEMENT

244.350 Civil penalties

244.360 Forfeiture of twice financial benefit

244.370 Procedure for collecting penalties

244.380 Sanctions against noncomplying officials or candidates

244.390 Status of penalties and sanctions

244.400 Attorney fees for public official prevailing in enforcement action or lawsuit

GENERAL PROVISIONS

244.010 Policy. (1) The Legislative Assembly hereby declares that a public office is a public trust, and that as one safeguard for that trust, the people require all public officials to adhere to the code of ethics set forth in ORS 244.040.

(2) The Legislative Assembly recognizes that it is the policy of the state to have serving on many state and local boards and commissions state and local officials who may have potentially conflicting public responsibilities by virtue of their positions as public officials and also as members of the boards and commissions, and declares it to be the policy of the state that the holding of such offices does not constitute the holding of incompatible offices unless

expressly stated in the enabling legislation.

(3) Nothing in this chapter is intended to affect:

(a) Any other statute requiring disclosure of economic interest by any public official or public employee.

(b) Any statute prohibiting or authorizing specific conduct on the part of any public official or public employee.

[1974 c.72 §§1,1a; 1987 c.566 §7]

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

(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 (7) of this section.

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

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

(a) Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth $1,000 or more at any point in the preceding calendar year;

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

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

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business from which 50 percent or more of the total annual income of the person and members of the person's household is derived during the current calendar year.

(4) "Commission" means the Oregon Government Standards and Practices Commission.

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

(6) "Expenditure" has the meaning given that term in ORS 260.005.

(7) "Potential 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 could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative is associated, unless the pecuniary benefit or detriment arises out of the following:

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

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or the person's relative or business with which the person or the person's relative is associated, is a member or is engaged. The commission may by rule limit the minimum size of or otherwise establish criteria for or identify the smaller classes that qualify under this exception.

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

(8) "Gift" means something of economic value given to a public official or the public official's relative without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials or the relatives of public officials on the same terms and conditions; and something of economic value given to a public official or the public official's relative for valuable consideration less than that required from others who are not public officials. However, "gift" does not mean:

(a) Campaign contributions, as described in ORS chapter 260.

(b) Gifts from family members.

(c) The giving or receiving of food, lodging and travel when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity, subject to the reporting requirement of ORS 244.060 (6).

(d) The giving or receiving of food or beverage if the food or beverage is consumed by the public official or the public official's relatives in the presence of the purchaser or provider thereof.

(e) The giving or receiving of entertainment if the entertainment is experienced by the public official or the public official's relatives in the presence of the purchaser or provider thereof and the value of the entertainment does not exceed $100 per person on a single occasion and is not greater than $250 in any one calendar year.

(9) "Honoraria" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event at which the public official appears in an official capacity.

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

(11) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a person acting in the capacity of a public official.

(12) "Legislative official" means any member or member-elect of the Legislative Assembly, any member of an agency, board or committee that is part of the legislative branch and any staff person, assistant or employee thereof.

(13) "Member of household" means any relative who resides with the public official.

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

(15) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

(16) "Relative" means the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters or parents of the public official or of the public official's spouse.

(17) "Statewide official" means the Secretary of State or Secretary of State-elect, State Treasurer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

(18) "Zoning commission" means an entity to which is delegated at least some of the discretionary authority of a planning commission or governing body relating to zoning and land use matters. [1974 c.72 §2; 1975 c.543 §1; 1977 c.588 §2; 1979 c.666 §5; 1987 c.566 §8; 1989 c.340 §2; 1991 c.73 §1; 1991 c.770 §5; 1993 c.743 §8; 1995 c.79 §85; 1997 c.249 §75; 2001 c.200 §1]

244.030 Application. Nothing in this chapter is intended to affect:

(1) Any other statute requiring disclosure of economic interest by any public official or public employee.

(2) Any statute prohibiting or authorizing specific conduct on the part of any public official or public employee. [1974 c.72 §24]

244.040 Code of ethics; prohibited actions; honoraria. The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

(b) No statewide official shall solicit or receive, whether directly or indirectly, honoraria for the statewide official or for any member of the household of the official. No candidate for statewide office shall solicit or receive, whether directly or indirectly, honoraria for the candidate or for any member of the household of the candidate.

(c) No legislative official shall solicit or receive, whether directly or indirectly, honoraria in an amount in excess of $1,500 or in any amount for an appearance within the state or for an appearance during a legislative session, regardless of location, for the legislative official or for any member of the household of the official, except that a legislative official may solicit or receive honoraria for services performed in relation to the private profession or occupation of

the legislative official. No candidate for legislative office shall solicit or receive, whether directly or indirectly, honoraria in an amount in excess of $1,500 or in any amount for an appearance within the state for the candidate or for any member of the household of the candidate, except that a candidate for legislative office may solicit or receive honoraria for services performed in relation to the private profession or occupation of the legislative official.

(d) Any public official not described in paragraph (b) or (c) of this subsection or a member of the public official's household may receive honoraria.

(2) No public official or candidate for office or a relative of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of $100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.

(4) No public official shall attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

(5) No person shall offer during any calendar year any gifts with an aggregate value in excess of $100 to any public official or candidate therefor or a relative of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(6) No person shall attempt to represent or represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate. [1974 c.72 §3; 1975 c.543 §2; 1987 c.566 §9; 1989 c.340 §3; 1991 c.146 §1; 1991 c.770 §6; 1991 c.911 §4; 1993 c.743 §9]

244.045 Regulation of subsequent employment of public officials. (1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

(a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b) Within two years after the public official ceases to hold the position:

(A) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(B) Influence or try to influence the actions of the agency; or

(C) Disclose any confidential information gained as a public official.

(2) A person who has been a Deputy Attorney General or an assistant attorney general shall not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

(3) A person who has been the State Treasurer or the Chief Deputy State Treasurer shall not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least $25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least $50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(4) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public

official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

(5)(a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule shall not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, “Native American tribe” means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land. [1987 c.360 §1; 1993 c.743 §10; 1995 c.79 §86; 1997 c.750 §1]

REPORTING

244.050 Persons required to file statement of economic interest; filing deadline; civil penalty. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Standards and Practices Commission a verified statement of economic interest as required under this chapter:

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

(b) Any judicial officer, including justices of the peace and municipal judges, except municipal judges in those cities where a majority of the votes cast in the subject city in the 1974 general election was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session), and except any pro tem judicial officer who does not otherwise serve as a judicial officer.

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

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the Oregon University System and the president and vice presidents, or their administrative equivalents, in each institution under the jurisdiction of the State Board of Higher Education.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) Director of the Oregon State Fair and Exposition Center.

(H) State Fish and Wildlife Director.

(I) State Forester.

(J) State Geologist.

(K) Director of Human Services.

(L) Director of the Department of Consumer and Business Services.

(M) Director of Division of State Lands.

(N) State Librarian.
(O) Administrator of Oregon Liquor Control Commission.
(P) Superintendent of State Police.
(Q) Director of the Public Employees Retirement System.
(R) Director of Department of Revenue.
(S) Director of Transportation.
(T) Public Utility Commissioner.
(U) Director of Veterans' Affairs.
(V) Executive Director of Oregon Government Standards and Practices Commission.
(W) Administrator of the Office of Energy.
(X) Director and each assistant director of the Oregon State Lottery.
(h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
(i) Every elected city or county official except elected officials in those cities or counties where a majority of votes cast in the subject city or county in any election on the issue of filing statements of economic interest under this chapter was in opposition.
(j) Every member of a city or county planning, zoning or development commission except such members in those cities or counties where a majority of votes cast in the subject city or county at any election on the issue of filing statements of economic interest under this chapter was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session).
(k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county except such employees in those cities or counties where a majority of votes cast in the subject city or county in an election on the issue of filing statements of economic interest under this chapter was in opposition.
(L) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
(m) Every member of a governing body of a metropolitan service district and the executive officer thereof.
(n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
(o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
(p) Every member of the following state boards and commissions:
(A) Capitol Planning Commission.
(B) Board of Geologic and Mineral Industries.
(C) Oregon Economic and Community Development Commission.
(D) State Board of Education.
(E) Environmental Quality Commission.
(F) Fish and Wildlife Commission of the State of Oregon.
(G) State Board of Forestry.
(H) Oregon Government Standards and Practices Commission.
(I) Oregon Health Council.
(J) State Board of Higher Education.
(K) Oregon Investment Council.
(L) Land Conservation and Development Commission.
(M) Oregon Liquor Control Commission.
(N) Oregon Short Term Fund Board.
(O) State Marine Board.
(P) Mass transit district boards.
(Q) Energy Facility Siting Council.
(R) Board of Commissioners of the Port of Portland.
(S) Employment Relations Board.
(T) Public Employees Retirement Board.
(U) Oregon Racing Commission.
(V) Oregon Transportation Commission.
(W) Wage and Hour Commission.
(X) Water Resources Commission.
(Y) Workers' Compensation Board.
(Z) Oregon Facilities Authority.

(AA) Oregon State Lottery Commission.
(BB) Pacific Northwest Electric Power and Conservation Planning Council.
(CC) Columbia River Gorge Commission.
(DD) Oregon Health and Science University Board of Directors.
(q) The following officers of the State Treasury:
(A) Chief Deputy State Treasurer.
(B) Executive Assistant to the State Treasurer.
(C) Director of the Investment Division.
(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.
(3) By April 15 next after the filing date for the primary election, each candidate for elective public office described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.
(4) Within 30 days after the filing date for the general election, each candidate for elective public office described in subsection (1) of this section who was not a candidate in the preceding primary election shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.
(5) The Legislative Assembly shall maintain a continuing review of the operation of this chapter and from time to time may add to or delete from the list of boards and commissions in subsections (1) to (3) of this section as in the judgment of the Legislative Assembly is consistent with the purposes of this chapter.
(6) Subsections (1) to (5) of this section apply only to persons who are incumbent, elected or appointed officials as of April 15 and to persons who are candidates for office on April 15. Those sections also apply to persons who do not become candidates until 30 days after the filing date for the statewide general election.
(7)(a) Failure to file the statement required by this section subjects a person to a civil penalty that may be imposed as specified in ORS 183.090, but the enforcement of this subsection does not require the Oregon Government Standards and Practices Commission to follow the procedures in ORS 244.260 before finding that a violation of this section has occurred.
(b) Failure to file the required statement in timely fashion shall be prima facie evidence of a violation of this section.
(c) If within five days after the date on which the statement is to be filed under this section the statement has not been received by the commission, the commission shall notify the public official and give the public official not less than 15 days to comply with the requirements of this section. If the public official fails to comply by the date set by the commission, the commission may impose a civil penalty of $5 for each day the statement is late beyond the date fixed by the commission. The maximum penalty that may be accrued under this section is $1,000.
(d) A civil penalty imposed under this subsection is in addition to and not in lieu of sanctions that may be imposed under ORS 244.380. [1974 c.72 §§4, 4a; 1975 c.543 §3; 1977 c.588 §3; 1977 c.751 §16; 1979 c.374 §5; 1979 c.666 §6; 1979 c.697 §1; 1979 c.736 §1; 1979 c.829 §9b; 1987 c.373 §26; 1987 c.414 §148; 1987 c.566 §10; 1991 c.73 §2; 1991 c.160 §1; 1991 c.163 §1; 1991 c.470 §13; 1991 c.614 §2; 1993 c.500 §10; 1993 c.743 §11; 1995 c.79 §87; 1995 c.712 §94; 1997 c.652 §16; 1997 c.833 §22; 1999 c.59 §62; 1999 c.291 §28; 2001 c.104 §77]

244.055 Additional reporting requirements for State Treasury; confidentiality; effect of failure to comply with requirements. (1) In addition to the statement required by ORS 244.050, the State Treasurer and any person listed under ORS 244.050 (1)(q) and this subsection shall file quarterly at a time fixed by the State Treasurer a trading statement listing all stocks, bonds and other types of securities purchased or sold during the preceding quarter:
(a) Directors of the Cash Management Division and the Debt Management Division.
(b) Equities, fixed income, short term fund, real estate, equities real estate and commercial and mortgage real estate investment officers and assistant investment officers.
(c) Fixed income and short term fund investment analysts.
(2) The statement required by subsection (1) of this section shall be filed for review with the State Treasurer, the Attorney General and the Division of Audits of the office of the Secretary of State. The content of the statement is confidential.
(3) If the State Treasurer or the Chief Deputy State Treasurer determines that a conflict of interest exists for an officer or employee, the State Treasurer shall subject the person to appropriate discipline, including dismissal or termination of the contract, or both, pursuant to rule. If the State Treasurer has cause to believe that a violation of this

chapter has occurred, the State Treasurer shall file a complaint with the Oregon Government Standards and Practices Commission under ORS 244.260.

(4) If the State Treasurer fails to act on an apparent conflict of interest under subsection (3) of this section or if the statement of the State Treasurer or the Chief Deputy State Treasurer appears to contain a conflict of interest, the Director of the Division of Audits shall report the failure or apparent conflict to the Attorney General, who may file a complaint with the commission.

(5) A person filing the statement required by subsection (1) of this section must verify that the statement is complete and accurate. A person who intentionally fails to file a complete and accurate statement commits a Class C felony and may also be subject to ORS 162.075. [1993 c.743 §26]

244.060 Form of statement of economic interest. The statement of economic interest filed under ORS 244.050, shall be on a form prescribed by the Oregon Government Standards and Practices Commission, and the person filing the statement shall supply the information required by this section and ORS 244.090, as follows:

(1) The name of all positions as officer of a business and business directorships held by the person or a member of the household of the person during the preceding calendar year.

(2) All names under which the person and members of the household of the person do business.

(3) Sources of income received at any time during the preceding calendar year by the person or a member of the household of the person that produce 10 percent or more of the total annual household income.

(4) The name, principal address and brief description of the source of income from which 50 percent or more of the total annual income of the person and members of the household of the person was received during the preceding calendar year and whether the source existed during the preceding year, and whether the source is derived from an entity that now does business or could reasonably be expected to do business or has legislative or administrative interest in the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority.

(5)(a) The listing of all real property in which the public official or candidate therefor or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell real property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority.

(b) This subsection does not require the listing of the principal residence of the public official or candidate.

(6)(a) Notwithstanding ORS 244.020 (8)(c), if a public official has received food, lodging and payment of travel expenses exceeding $100 when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity, the name, nature and business address of the organization paying the expenses and the date and amount of that expenditure.

(b) Beginning on July 1, 1992, the dollar amount specified in paragraph (a) of this subsection shall be adjusted annually by the commission based upon the change in the Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this paragraph shall be rounded to the nearest dollar.

(7) Any honoraria exceeding $50 received during the preceding calendar year by the person or a member of the household of the person, the payer of the honoraria and the date and time of the event for which the honoraria was received. [1974 c.72 §5; 1975 c.543 §4; 1987 c.566 §11; 1991 c.770 §7; 1993 c.743 §12]

244.070 When additional statement of economic interest required. The following additional economic interest shall be reported for the preceding calendar year only if the source of that interest is derived from an individual or business which has been doing business, does business or could reasonably be expected to do business with or has legislative or administrative interest in the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority:

(1) Each source of income over $1,000, other than a source of income disclosed under ORS 244.060, whether or not taxable, received by the public official or candidate therefor or a member of the household of the public official or candidate.

(2) Each person to whom the public official or candidate therefor or a member of the household of the public official or candidate owes or has owed money in excess of $1,000, the interest rate thereon and the date of the loan,

except for debts owed to any federal or state regulated financial institution or retail contracts.

(3) Each business, principal address, and brief description of its nature, in which the public official or candidate therefor or a member of the household of the public official or candidate has or has had a personal, beneficial interest or investment, including stocks or other securities, in excess of $1,000, except for individual items involved in a mutual fund or a blind trust, or a time or demand deposit in a financial institution, shares in a credit union, or the cash surrender value of life insurance.

(4) Each person for whom the public official or candidate has performed services for a fee in excess of $1,000 except for any disclosure otherwise prohibited by law or by a professional code of ethics. [1974 c.72 §6; 1975 c.543 §5; 1987 c.566 §12]

244.080 Filing of different form allowed by rule. The Oregon Government Standards and Practices Commission by rule may accept the filing of a form containing less than the information required under ORS 244.060 and 244.070 if the public official certifies thereon that the information contained on the form previously filed is unchanged. If any portion of the information contained in the filing is changed, the public official may certify only as to the changed material. [Subsection (1) enacted as 1974 c.72 §8; subsection (2) enacted as 1975 c.543 §7(1); 1977 c.588 §4; 1987 c.566 §13]

244.090 Report on association with compensated lobbyist. (1) Each public official of this state or candidate required to make a statement of economic interest shall report by name any compensated lobbyist who, during the preceding calendar year, was associated with a business with which the public official or candidate or a member of the household of the public official or candidate was also associated. Holding stock in a publicly traded corporation in which the lobbyist also holds stock is not a relationship for which a statement is required.

(2) As used in this section “lobbyist” has the meaning set forth in ORS 171.725. [1974 c.72 §7; 1975 c.543 §6; 1987 c.566 §14]

244.100 Disclosure of gifts or other compensation; exemptions from gift limitation; rules. (1) The Oregon Government Standards and Practices Commission by rule may require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for elective office.

(2) The commission by rule may exempt from the gift limitation contained in ORS 244.040, any gift of food or beverage but may require that when gifts of food or beverage exceed a dollar amount fixed by the commission, the source thereof shall be disclosed on a form prescribed by the commission.

(3) In addition to any disclosures or reports required under subsections (1) and (2) of this section, any person or organization that provides a public official with food, lodging or travel expenses exceeding $50, as described in ORS 244.060 (6), shall notify the public official in writing of the amount of the expense. The notice shall be sent to the public official within 10 days from the date such expenses are incurred. [1975 c.543 §11; 1991 c.677 §1]

244.110 Required statements subject to penalty for false swearing. (1) Any statement of economic interest required to be filed by ORS 244.050, 244.060, 244.070, 244.080, 244.090 or 244.100 shall contain or be verified by a written declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.

(2) No person shall willfully make and subscribe any return statement or other document which contains or is verified by a written declaration that it is made under penalties for false swearing, which the person does not believe to be true and correct to every matter. [1974 c.72 §22; 1977 c.588 §5]

244.115 Filing required for member of Congress or candidate; filing date. Each member of Congress from this state and each candidate for a seat in Congress from this state shall file with the Oregon Government Standards and Practices Commission a copy of the federal ethics filing required under federal law or by congressional rule within 30 days after the filing date required under federal law or congressional rule. If the filing is not made in a timely manner, the commission shall obtain copies of the filing and indicate thereon that the filing was not made with the commission by the member of Congress or candidate. All such filings are public records available for public inspection. [1991 c.160 §7]

METHOD OF HANDLING ACTUAL OR POTENTIAL CONFLICTS

244.120 Methods of handling conflicts; generally; application to elected officials or members of boards. (1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the conflict before taking any action thereon in the capacity of a public official.

(b) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(c) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the conflict, and request that the appointing authority dispose of the matter giving rise to the conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(2) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so. [1974 c.72 §10; 1975 c.543 §7; 1987 c.566 §15; 1993 c.743 §15]

244.130 Recording of notice of conflict; effect of failure to disclose conflict; rules. (1) When a public official gives notice of an actual or potential conflict of interest, the actual or potential conflict shall be recorded in the official records of the public body, and a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided the Oregon Government Standards and Practices Commission within a reasonable period of time. The commission may by rule establish criteria for cases in which such information shall, shall not, or may be provided to it.

(2) No decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed shall be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest. [1974 c.72 §11; 1975 c.543 §8; 1993 c.743 §16]

244.135 Method of handling conflicts by planning commission members. (1) A member of a city or county planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest:

(a) The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member;

(b) Any business in which the member is then serving or has served within the previous two years; or

(c) Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

(2) Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken. [Formerly 215.035 and 227.035]

APPLICATION OF REPORTING REQUIREMENTS TO LOCAL GOVERNMENTS

244.160 Application to political subdivisions except cities and counties. Any political subdivision in this state other than a city or county by resolution may require any public official of the subdivision to file a verified statement of economic interest. The filing shall be made with the Oregon Government Standards and Practices Commission. A copy of the ordinance shall be filed with the commission. [1974 c.72 §9]

244.170 “Statement of economic interest” defined. As used in this chapter, “statement of economic interest” means a statement as described by ORS 244.060 to 244.080. [1975 c.216 §1a]

244.180 When city officials required to file statement. (1) As used in this section, “public officials of a city” means each person holding an elective city office; each member of a city planning, zoning or development commission; and the chief executive officer of the city who performs the duties of manager or a principal administrator of the city.

(2) Public officials of a city are required to file a statement of economic interest with the Oregon Government Standards and Practices Commission if a majority of the votes cast by the electors of the city voting at the election as provided for in ORS 244.201 is in favor thereof. [1975 c.216 §2; 1987 c.566 §16]

244.190 When county officials required to file statement. (1) As used in this section, “public officials of a county” means each person holding an elective county office; each member of a county planning, zoning or development commission; and the chief executive officer of the county who performs the duties of a principal administrator of the county.

(2) Public officials of a county are required to file a statement of economic interest with the Oregon Government Standards and Practices Commission if a majority of the votes cast by the electors of the county voting at the election as provided for in ORS 244.201 is in favor thereof. [1975 c.216 §3; 1987 c.566 §17]

244.195 Certain city and county officers to be informed of reporting requirements; effect of failure to inform. (1) The city recorder or county clerk, respectively, shall provide to every person newly elected or appointed to any city or county office for which statements of financial interest are required under ORS 244.050 information about the requirements of ORS 244.050, 244.060, 244.070, 244.080 and 244.090 either at the first meeting attended by the new officer or before the officer takes the oath of office, whichever is first.

(2) At the time of fulfilling duties under subsection (1) of this section, the city recorder or county clerk shall provide to each new officer a copy of the statements and explanation provided to the city recorder or county clerk under subsection (3) of this section.

(3) The Oregon Government Standards and Practices Commission shall provide copies of the statements described in ORS 244.060, 244.070, 244.080 and 244.090 and an explanation of the requirements of the law relating to the statements to each city recorder and county clerk.

(4) Any person described in subsection (1) of this section who is not informed of the filing requirements under ORS 244.050, 244.060, 244.070, 244.080 and 244.090 and provided with a copy of the statements and explanation described in subsection (3) of this section before taking the oath of office may resign that office within 90 days thereafter or before the next date specified in ORS 244.050 for the filing of a statement, whichever is longer, without filing any statement and without sanction or penalty that might otherwise be imposed for not filing. [1979 c.332 §2]

244.200 [1975 c.216 §5; repealed by 1983 c.350 §62 (244.201 enacted in lieu of 244.200 and 244.210)]

244.201 Election procedure for city or county. (1) This section establishes the procedure for submitting at an election:

(a) The question whether public officials of a city, as defined in ORS 244.180, shall be required to file a statement of economic interest with the Oregon Government Standards and Practices Commission.

(b) The question whether public officials of a county, as defined in ORS 244.190, shall be required to file a statement of economic interest with the commission.

(2) Upon receipt of a petition filed as provided in this section, the governing body of a city or county shall submit the question at the next primary election or general election.

(3) The requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition:

(a) In the case of a city, in ORS 250.265 to 250.346.

(b) In the case of a county, in ORS 250.165 to 250.235.

(4) If ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city or if ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the city or county charter or an ordinance adopted under the city or

county charter.

(5) The ballot title for a question submitted to election under this section must specify the public officials of the city, as defined in ORS 244.180, or of the county, as defined in ORS 244.190.

(6) If a question under this section appears on both city and county ballots the votes cast in each city and in each county shall be counted, canvassed, returned and declared separately for each city and county.

(7) The results of any question submitted to election under this section shall be forwarded by the city recorder or county clerk to the Oregon Government Standards and Practices Commission not later than January 1 next following the election. [1983 c.350 §63 (enacted in lieu of 244.200 and 244.210); 1995 c.712 §95]

244.210 [1975 c.216 §4; repealed by 1983 c.350 §62 (244.201 enacted in lieu of 244.200 and 244.210)]

COMMISSION

244.250 Oregon Government Standards and Practices Commission; appointment; term; quorum; compensation; legal counsel. (1) The Oregon Government Standards and Practices Commission is established, consisting of seven members appointed in the following manner to be confirmed by the Senate:

(a) Four members appointed by the Governor from among persons recommended, one each by the leadership of the Democratic and Republican parties in each house of the Legislative Assembly. If a person recommended by the leadership of the Democratic or Republican party is not approved by the Governor, another person shall be recommended.

(b) Three members appointed by the Governor without leadership recommendation, no more than two of whom shall be from the same major political party.

(2) No person who holds any public office listed in ORS 244.050 (1) except as a member of the commission shall be appointed to the commission. No more than four members shall be members of the same political party.

(3) The term of office is four years. No member shall be eligible to be appointed to more than one full term but may serve out an unexpired term. However, those members first appointed to the commission serving less than a three-year term are eligible for a second appointment for a full term. Vacancies shall be filled by the appointing authority for the unexpired term.

(4) The commission shall elect a chairperson and vice chairperson for such terms and duties as the commission may require.

(5) A quorum consists of four members but no final decision may be made without an affirmative vote of the majority of the members appointed to the commission.

(6) Members shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) The commission may retain or appoint qualified legal counsel who shall be a member of the Oregon State Bar and who shall be responsible to the commission. The appointment of legal counsel under this subsection shall be made only when the commission finds it is inappropriate and contrary to the public interest for the office of the Attorney General to represent concurrently more than one public official or agency in any matter before the commission because such representation would create or tend to create a conflict of interest and is not subject to ORS 180.230 or 180.235.

(8) The Attorney General shall not represent before the commission any state public official who is the subject of any complaint or action of the commission at the commission's own instigation. [1974 c.72 §12; 1977 c.588 §6; 1987 c.566 §18; 1991 c.770 §3; 1993 c.743 §17]

244.260 Confidential Preliminary Review Phase; Investigatory Phase; notice; findings; contested case or court proceedings. (1)(a) Upon its own instigation or signed complaint of any person, the Oregon Government Standards and Practices Commission may undertake action in the Preliminary Review Phase with respect to the contents of any statements filed under this chapter or resolution adopted pursuant thereto or any alleged violation of any provision of this chapter.

(b) The public official who is the subject of a complaint or of the commission's own action shall be notified immediately upon receipt of the complaint or upon adoption of a motion by the commission to undertake any action concerning the public official. The notice shall be given by telephone if the official can be reached and shall also be in writing mailed to the official. The notice shall include the nature of the complaint or motion and a copy of all materials submitted along with the complaint or materials which give rise to the commission's instigation of action on its own motion. However, the official must also be notified in advance if an issue that may give rise to a motion to undertake action on the commission's own instigation is to be discussed at a commission meeting.

(c) Before investigating any complaint or undertaking any investigation at the commission's own instigation, if the public official who is the subject of the complaint or of the commission's own action is a member of the Legislative Assembly, the commission shall determine whether the alleged violation of any provision of this chapter involves conduct protected by section 9, Article IV of the Oregon Constitution. If the commission determines that the conduct is protected by section 9, Article IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its motion as provided in paragraph (e) of this subsection.

(d) If the complaint has not been dismissed or the motion of the commission has not been rescinded as described in paragraph (c) of this subsection, before investigating any complaint or undertaking an investigation on the commission's own instigation, the commission shall make a finding that there is cause to undertake an investigation, notify the public official who is the subject of the investigation, identify the issues to be examined and shall confine its investigation to those issues. If the commission finds reason to expand its investigation, it shall move to do so and shall record in its minutes the issues to be examined before expanding the scope of its investigation and formally notify the complainant and the public official who is the subject of the complaint of the expansion and the scope thereof.

(e) If the commission does not make a finding of cause, or if the commission determines that the alleged violation of this chapter involves conduct protected by section 9, Article IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its motion and shall formally enter the dismissal or rescission on its records. The commission shall notify the public official of the dismissal or rescission. After dismissal or rescission, the commission shall take no further action involving the public official unless a new and different complaint is filed or action at its own instigation is undertaken based on different conduct.

(2) The commission may:

(a) During the Preliminary Review Phase, seek, solicit or otherwise obtain any books, papers, records, memoranda or other additional information, administer oaths and take depositions necessary to determine whether there is cause or if the alleged violation is protected by section 9, Article IV of the Oregon Constitution; and

(b) During the Investigatory Phase, require any additional information, administer oaths, take depositions and issue subpoenas to compel attendance of witnesses and the production of books, papers, records, memoranda or other information necessary to complete the investigation. If any person fails to comply with any subpoena issued under this section or refuses to testify on any matters on which the person may be lawfully interrogated, the procedure provided in ORS 183.440 shall be followed to compel compliance.

(3) The person conducting any inquiry or investigation shall do so in an impartial, objective manner. All favorable and unfavorable information collected by the investigator shall be turned over to the commission.

(4) The findings of the commission in any inquiry or investigation shall be reported impartially, including both favorable and unfavorable findings, and shall be made available to the public official who is the subject thereof, to the appointing authority, if any, and to the Attorney General for state public officials and to the appropriate district attorney for local public officials. The findings shall be made available to the Commission on Judicial Fitness and Disability in any investigation involving a judge.

(5) Hearings relating to any charge of alleged violation of this chapter may be held before the commission or before a hearing officer assigned from the Hearing Officer Panel established under section 3, chapter 849, Oregon Laws 1999. The procedure shall be that for a contested case under ORS 183.310 to 183.550.

(6)(a) The period of time from the filing of a complaint or from acting on the commission's own instigation to the finding of cause or dismissal of the complaint or rescission of the motion shall be termed the Preliminary Review Phase and shall not exceed 90 days unless a delay is stipulated to by both the public official and the Oregon Government Standards and Practices Commission with the commission reserving a portion of the delay period to complete its actions.

(b) The Preliminary Review Phase shall be confidential. Commission members and staff may acknowledge receipt of a complaint but shall make no public comment or publicly disclose any materials relating to a case during the Preliminary Review Phase. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed $1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(c) The commission's deliberations of a case at the conclusion of the Preliminary Review Phase shall be conducted in executive session. All case related materials and proceedings shall be open to the public after the commission makes a finding of cause, dismisses a complaint or rescinds a motion. Prior to the end of the Preliminary Review Phase, the executive director of the commission shall prepare a statement of the facts determined during the phase, including

appropriate legal citations and relevant authorities. Before presentation to the commission, the executive director's statement shall be reviewed by legal counsel to the commission.

(d) The time limit imposed in this subsection and the commission's inquiry are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its inquiry.

(7)(a) The period of time from the finding of cause to the beginning of any contested case proceedings shall be termed the Investigatory Phase and shall not exceed 120 days unless a delay is stipulated to by both the public official and the Oregon Government Standards and Practices Commission with the commission reserving a portion of the delay period to complete its actions.

(b) The time limit imposed in this subsection and the commission's investigation are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its investigation.

(c) At the end of the Investigatory Phase, the commission shall take action by order, which action may include:

(A) Dismissal, with or without comment;

(B) Continuation of the investigation to determine further facts, but no more than one continuation, not to exceed 30 days' duration, shall be taken;

(C) Moving to a contested case proceeding;

(D) Seeking a negotiated settlement; or

(E) Taking other appropriate action if justified by the findings.

(8) If, at the end of the Investigatory Phase, the commission takes action by order to move to a contested case proceeding, a public official may notify the commission that the official elects to have the commission file a lawsuit against the official in the Marion County Circuit Court in lieu of the contested case proceeding. The public official shall notify the commission of the election in writing no later than 21 days after receiving notification of the commission's action by order to move to the contested case proceeding. The commission shall file suit within 30 days after receiving notice that the public official has elected the lawsuit procedure.

(9) The commission shall not inquire into or investigate any complaint or act at its own instigation on alleged conduct that occurred more than four years before the complaint is filed or action is undertaken.

(10) Nothing in this section is intended to prevent the commission and the public official or other person alleged to have violated this chapter from stipulating to a finding of fact concerning the violation and consenting to an appropriate penalty. The commission shall enter an order accordingly.

(11) As used in this section:

(a) "Cause" means that there is a substantial, objective basis for believing that an offense or violation may have been committed and the person who is the subject of an inquiry may have committed the offense or violation.

(b) "Pending" means that a prosecuting attorney is either actively investigating the factual basis of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of negotiating a plea. [1974 c.72 §13; 1989 c.807 §1; 1991 c.272 §1; 1991 c.770 §1a; 1993 c.743 §18; 1999 c.849 §51; 1999 c.850 §1]

Note: The amendments to 244.260 by section 52, chapter 849, Oregon Laws 1999, become operative January 1, 2004. See section 53, chapter 849, Oregon Laws 1999. The text that is operative on and after January 1, 2004, is set forth for the user's convenience.

244.260. (1)(a) Upon its own instigation or signed complaint of any person, the Oregon Government Standards and Practices Commission may undertake action in the Preliminary Review Phase with respect to the contents of any statements filed under this chapter or resolution adopted pursuant thereto or any alleged violation of any provision of this chapter.

(b) The public official who is the subject of a complaint or of the commission's own action shall be notified immediately upon receipt of the complaint or upon adoption of a motion by the commission to undertake any action concerning the public official. The notice shall be given by telephone if the official can be reached and shall also be in writing mailed to the official. The notice shall include the nature of the complaint or motion and a copy of all materials submitted along with the complaint or materials which give rise to the commission's instigation of action on its own motion. However, the official must also be notified in advance if an issue that may give rise to a motion to undertake action on the commission's own instigation is to be discussed at a commission meeting.

(c) Before investigating any complaint or undertaking any investigation at the commission's own instigation, if the public official who is the subject of the complaint or of the commission's own action is a member of the Legislative Assembly, the commission shall determine whether the alleged violation of any provision of this chapter involves conduct protected by section 9, Article IV of the Oregon Constitution. If the commission determines that the conduct is protected by section 9, Article IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its motion as provided in paragraph (e) of this subsection.

(d) If the complaint has not been dismissed or the motion of the commission has not been rescinded as described in paragraph (c) of this subsection, before investigating any complaint or undertaking an investigation on the commission's own instigation, the commission shall make a finding that there is cause to undertake an investigation, notify the public official who is the subject of the investigation, identify the issues to be examined and shall confine its investigation to those issues. If the commission finds reason to expand its investigation, it shall move to do so and shall record in its minutes the issues to be examined before expanding the scope of its investigation and formally notify the complainant and the public official who is the subject of the complaint of the expansion and the scope thereof.

(e) If the commission does not make a finding of cause, or if the commission determines that the alleged violation of this chapter involves conduct protected by section 9, Article IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its motion and shall formally enter the dismissal or rescission on its records. The commission shall notify the public official of the dismissal or rescission. After dismissal or rescission, the commission shall take no further action involving the public official unless a new and different complaint is filed or action at its own instigation is undertaken based on different conduct.

(2) The commission may:

(a) During the Preliminary Review Phase, seek, solicit or otherwise obtain any books, papers, records, memoranda or other additional information, administer oaths and take depositions necessary to determine whether there is cause or if the alleged violation is protected by section 9, Article IV of the Oregon Constitution; and

(b) During the Investigatory Phase, require any additional information, administer oaths, take depositions and issue subpoenas to compel attendance of witnesses and the production of books, papers, records, memoranda or other information necessary to complete the investigation. If any person fails to comply with any subpoena issued under this section or refuses to testify on any matters on which the person may be lawfully interrogated, the procedure provided in ORS 183.440 shall be followed to compel compliance.

(3) The person conducting any inquiry or investigation shall do so in an impartial, objective manner. All favorable and unfavorable information collected by the investigator shall be turned over to the commission.

(4) The findings of the commission in any inquiry or investigation shall be reported impartially, including both favorable and unfavorable findings, and shall be made available to the public official who is the subject thereof, to the appointing authority, if any, and to the Attorney General for state public officials and to the appropriate district attorney for local public officials. The findings shall be made available to the Commission on Judicial Fitness and Disability in any investigation involving a judge.

(5) Hearings relating to any charge of alleged violation of this chapter may be held before the commission or before a hearing officer appointed by the commission. The procedure shall be that for a contested case under ORS 183.310 to 183.550.

(6)(a) The period of time from the filing of a complaint or from acting on the commission's own instigation to the finding of cause or dismissal of the complaint or rescission of the motion shall be termed the Preliminary Review Phase and shall not exceed 90 days unless a delay is stipulated to by both the public official and the Oregon Government Standards and Practices Commission with the commission reserving a portion of the delay period to complete its actions.

(b) The Preliminary Review Phase shall be confidential. Commission members and staff may acknowledge receipt of a complaint but shall make no public comment or publicly disclose any materials relating to a case during the Preliminary Review Phase. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed $1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(c) The commission's deliberations of a case at the conclusion of the Preliminary Review Phase shall be conducted in executive session. All case related materials and proceedings shall be open to the public after the commission makes a finding of cause, dismisses a complaint or rescinds a motion. Prior to the end of the Preliminary Review Phase, the executive director of the commission shall prepare a statement of the facts determined during the phase, including

appropriate legal citations and relevant authorities. Before presentation to the commission, the executive director's statement shall be reviewed by legal counsel to the commission.

(d) The time limit imposed in this subsection and the commission's inquiry are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its inquiry.

(7)(a) The period of time from the finding of cause to the beginning of any contested case proceedings shall be termed the Investigatory Phase and shall not exceed 120 days unless a delay is stipulated to by both the public official and the Oregon Government Standards and Practices Commission with the commission reserving a portion of the delay period to complete its actions.

(b) The time limit imposed in this subsection and the commission's investigation are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its investigation.

(c) At the end of the Investigatory Phase, the commission shall take action by order, which action may include:

(A) Dismissal, with or without comment;

(B) Continuation of the investigation to determine further facts, but no more than one continuation, not to exceed 30 days' duration, shall be taken;

(C) Moving to a contested case proceeding;

(D) Seeking a negotiated settlement; or

(E) Taking other appropriate action if justified by the findings.

(8) If, at the end of the Investigatory Phase, the commission takes action by order to move to a contested case proceeding, a public official may notify the commission that the official elects to have the commission file a lawsuit against the official in the Marion County Circuit Court in lieu of the contested case proceeding. The public official shall notify the commission of the election in writing no later than 21 days after receiving notification of the commission's action by order to move to the contested case proceeding. The commission shall file suit within 30 days after receiving notice that the public official has elected the lawsuit procedure.

(9) The commission shall not inquire into or investigate any complaint or act at its own instigation on alleged conduct that occurred more than four years before the complaint is filed or action is undertaken.

(10) Nothing in this section is intended to prevent the commission and the public official or other person alleged to have violated this chapter from stipulating to a finding of fact concerning the violation and consenting to an appropriate penalty. The commission shall enter an order accordingly.

(11) As used in this section:

(a) "Cause" means that there is a substantial, objective basis for believing that an offense or violation may have been committed and the person who is the subject of an inquiry may have committed the offense or violation.

(b) "Pending" means that a prosecuting attorney is either actively investigating the factual basis of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of negotiating a plea.

244.270 Findings as grounds for removal. If the Oregon Government Standards and Practices Commission finds that an appointed public official has violated any provision of this chapter or any rule adopted pursuant thereto, the finding shall constitute prima facie evidence of unfitness where removal is authorized for cause either by law or pursuant to section 6, Article VII (Amended) of the Oregon Constitution. [1974 c.72 §14; 1977 c.588 §7]

244.280 Opinions; liability of person following interpretation. (1) Upon the written request of any public official, candidate for public office or any person, or upon its own motion, the Oregon Government Standards and Practices Commission, under signature of the chairperson, may issue and publish opinions on the requirements of this chapter, based on actual or hypothetical circumstances.

(2) If any public official or business with which the public official is associated is in doubt whether a proposed transaction or action constitutes a violation of this chapter, the public official or the business may request in writing a determination from the commission. If any public official is in doubt whether receipt of an honoraria is in violation of this chapter because the person paying the honoraria may be found to have a legislative or administrative interest, the public official shall request in writing a determination from the commission. The requester shall supply such information as the commission requests to enable it to issue the interpretation.

(3) A public official or business with which a public official is associated shall not be liable under this chapter, for any action or transaction carried out in accordance with an advisory interpretation issued under subsection (2) of this section. Such an advisory interpretation shall be considered a formal opinion having precedential effect and shall be subject to review by legal counsel to the commission before the interpretation is sent to the requester. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13]

244.290 General duties of commission; rules. The Oregon Government Standards and Practices Commission shall:

(1) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or resolution adopted pursuant thereto.

(2) Prepare, publish and provide a manual setting forth recommended uniform methods of reporting for use by persons filing statements under this chapter or resolution adopted pursuant thereto.

(3) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(4) Prepare and publish such reports as the commission finds necessary.

(5) Adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order; and

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation. [1974 c.72 §17; 1987 c.566 §20; 1993 c.743 §23]

244.300 Status of records. Records of the Oregon Government Standards and Practices Commission shall constitute public records of this state. [1974 c.72 §18; 1977 c.588 §9]

244.310 Executive director; duties. The Oregon Government Standards and Practices Commission shall appoint an executive director to serve at the pleasure of the commission. The executive director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be designated or assigned to the executive director from time to time by the commission. However, the commission shall not delegate the power to make regulations or issue advisory opinions to the executive director. [1974 c.72 §16]

244.320 Manual on government ethics; revision. (1) The Oregon Government Standards and Practices Commission shall cause to have prepared and published a manual on government ethics that explains in terms understandable to legislative and public officials and the public the requirements of this chapter and the commission's interpretation of those requirements whether stated by rule or in an opinion.

(2) The commission shall be guided in preparing its manual by the manual prepared by the Attorney General to guide public officials and the public in the requirements of ORS chapter 192.

(3) The manual required by this section shall be updated as often as the commission believes necessary but no less frequently than once every four years. [1991 c.522 §2]

244.330 Distribution of ethics manual to public officials; assistance of professional associations. The Oregon Government Standards and Practices Commission shall distribute, insofar as is practicable, copies of its ethics manual to every public official. The commission shall seek the assistance of professional associations that represent public officials in its efforts to comply with this section. [1993 c.714 §4]

Note: 244.330 and 244.340 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 244 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

244.340 Continuing education program required. The Oregon Government Standards and Practices Commission

shall prepare and present a program of continuing education for public officials and lobbyists. For this purpose, the commission may use its own staff or may contract for the preparation and presentation of this program, or both. [1993 c.714 §5]

Note: See note under 244.330.

244.345 Oregon Government Standards and Practices Commission Account. The Oregon Government Standards and Practices Commission Account is established separate and distinct from the General Fund. All moneys received by the Oregon Government Standards and Practices Commission, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the commission to carry out the duties, functions and powers of the commission. [2001 c.716 §11]
Note: 244.345 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 244 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

ENFORCEMENT

244.350 Civil penalties. (1) The Oregon Government Standards and Practices Commission or the court under ORS 244.260 (8) may impose civil penalties not to exceed $1,000 for violating any provision of this chapter or any resolution adopted pursuant thereto except that for violation of ORS 244.045 the commission may impose a civil penalty of not to exceed $25,000.

(2) The commission may also impose civil penalties not to exceed $1,000 for violating any provision of ORS 192.660. However, a civil penalty may not be imposed under this subsection if the violation occurred as a result of the governing body of the public body acting upon the advice of the public body's counsel.

(3) Any penalty imposed under this section is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law, including removal from office. [1974 c.72 §19; 1977 c.588 §10; 1987 c.360 §3; 1993 c.743 §29; 1993 c.747 §2; 1997 c.750 §2]

244.360 Forfeiture of twice financial benefit. The Oregon Government Standards and Practices Commission, in addition to civil penalties prescribed in ORS 244.350, may require any public official who has financially benefited the public official or any other person by violation of any provision of this chapter to forfeit twice the amount that the public official or any other person realized from violating any provision of this chapter. [1974 c.72 §20; 1987 c.566 §21]

244.370 Procedure for collecting penalties. (1) Any civil penalty under ORS 244.350 or 244.360 shall be imposed in the manner prescribed by ORS 183.090.

(2) Notwithstanding ORS 183.090, a hearing shall be required in all cases prior to imposition of penalty unless the public official waives the hearing. The public official to whom the notice is addressed shall have 10 days from the date of service of the notice in which to waive a hearing before the Oregon Government Standards and Practices Commission and the public official shall be so notified.

(3) All penalties recovered under ORS 244.350 and 244.360 shall be paid into the State Treasury and credited to the General Fund. [1974 c.72 §21; 1977 c.588 §11; 1989 c.706 §10; 1991 c.734 §13]

244.380 Sanctions against noncomplying officials or candidates. (1) In the event that a public official or candidate subject to the requirements of this chapter, fails to file a statement of economic interests required by this chapter, or by resolution adopted pursuant thereto, the following actions shall be taken, irrespective of other penalties which may be imposed pursuant to this chapter if, after a hearing has been granted the public official and a penalty is imposed under ORS 244.370, the public official continues to refuse to file a statement of economic interests:

(a) Except as to judges, no compensation shall be paid to a salaried public official. Upon notice to the Oregon Department of Administrative Services or to the appropriate local authority from the Oregon Government Standards and Practices Commission of the failure to file the required report when due, compensation shall be withheld and the public official shall be barred from beginning or continuing to exercise the official duty of the public official until such time as the public official complies with the requirements of this chapter. In the case of a public official who receives no compensation, the public official shall be barred from beginning or continuing the exercise of the official duty of the public official until such time as a statement is filed as required under this chapter.

(b) Upon notice from the commission to the chief elections officer of the failure to file the statement required by this chapter, the chief elections officer shall:

(A) If the notice is received on or before the 61st day before the date of the election, cause the name of the candidate for public office to be removed from the ballot on which the name of the candidate would otherwise appear; or

(B) If the candidate has been nominated or elected, refuse to issue a certificate of nomination or election.

(2) If the name of a candidate for public office is removed from the ballot as provided in subsection (1) of this section, the name shall be removed in accordance with ORS 254.165. [1974 c.72 §23; 1975 c.543 §12; 1977 c.588 §12; 1987 c.566 §22; 1995 c.607 §69]

244.390 Status of penalties and sanctions. The penalties and sanctions imposed by this chapter are in addition to and not in lieu of any other penalty or sanction prescribed or authorized by law which applies to the conduct of public officials. [1974 c.72 §25]

244.400 Attorney fees for public official prevailing in enforcement action or lawsuit. (1) A public official or person described in ORS 171.778 who prevails following a contested case hearing under this chapter or a lawsuit under ORS 244.260 shall be awarded reasonable attorney fees at the conclusion of the contested case or on appeal.

(2) Upon prevailing following the conclusion of a contested case or lawsuit, the public official or person may petition the Circuit Court for Marion County for the purpose of determining the award of reasonable attorney fees. The Oregon Government Standards and Practices Commission shall be named as a respondent in the petition. The petitioner and respondent shall follow the procedure provided in ORCP 68 for the determination of reasonable attorney fees. The court shall give precedence on its docket to petitions filed under this subsection as the circumstances may require.

(3) The Court of Appeals shall award reasonable attorney fees to the public official or person if the public official prevails on appeal from any decisions of the commission or of the Marion County Circuit Court.

(4) Attorney fees to be awarded under this section shall be only those fees incurred by the public official or person from the time the commission notifies the public official or person that it has entered an order to move to a contested case proceeding.

(5) Any attorney fees awarded to the public official pursuant to this section shall be paid from the General Fund. [1991 c.770 §9; 1993 c.743 §30]

CHAPTER 245

[Reserved for expansion]