

Chapter 244

2007 EDITION

Government Ethics

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GENERAL PROVISIONS

244.010 Policy. (1) The Legislative Assembly declares that service as a public official is a public trust and that, as one safeguard for that trust, the people require all public officials to comply with the applicable provisions of this chapter.

(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. [1974 c.72 §1,1a; 1987 c.566 §7; 2005 c.22 §185; 2007 c.865 §28]

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 (11) 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 or a relative of the public official is associated only as a member or board director or 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 listed as a source of income as required under ORS 244.060 (3).

(4) “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.

(5)(a) “Gift” means something of economic value given to a public official or a relative or member of the household of the public official:

(A) 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 or members of the household of public officials on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials.

(b) “Gift” does not mean:

(A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official.

(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

(D) Informational material, publications or subscriptions related to the recipient’s performance of official duties.

(E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization before whom the public official appears to speak or to answer questions as part of a scheduled program.

(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code and that receives less than five percent

of its funding from for-profit organizations or entities, for attendance at a convention, fact-finding mission or trip, or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(G) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

(i) On an officially sanctioned trade-promotion or fact-finding mission; or

(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

(I) Food or beverage consumed by a public official acting in an official capacity:

(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official at a continuing education event that the public official may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or a relative or member of the household of the public official that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

(6) "Honorarium" 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.

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

(8) "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.

(9) "Member of the household" means any person who resides with the public official.

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

(11) "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.

(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.

(12) "Public office" has the meaning given that term in ORS 260.005.

(13) "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 as defined in ORS 174.109 as an elected official, appointed official, employee, agent or otherwise, irrespective of whether the person is compensated for the services.

(14) "Relative" means:

(a) The spouse of the public official;

(b) The domestic partner of the public official;

(c) Any children of the public official or of the public official's spouse;

(d) Siblings, spouses of siblings or parents of the public official or of the public official's spouse;

(e) Any individual for whom the public official has a legal support obligation; or

(f) Any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment.

(15) "Statement of economic interest" means a statement as described by ORS 244.060, 244.070 or 244.100.

(16) "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; 2003 c.14 §115; 2005 c.574 §1; 2007 c.865 §8; 2007 c.877 §16a]

244.025 Gift limit; entertainment prohibition. (1) During a calendar year, a public official, a candidate for public office or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or adminis-

trative interest in any governmental agency in which the public official holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(2) During a calendar year, a person who has a legislative or administrative interest in any governmental agency in which a public official holds any official position or over which the public official exercises any authority may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest in any governmental agency in which a candidate for public office if elected would hold any official position or over which the candidate if elected would exercise any authority may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

(4) Notwithstanding subsection (1) of this section:

(a) A public official, a candidate for public office or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift of payment of expenses for entertainment from any single source that could reasonably be known to have a legislative or administrative interest in any governmental agency in which the public official holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(b) A person who has a legislative or administrative interest in any governmental agency in which a public official holds any official position or over which the public official exercises any authority may not offer to the public official or a relative or member of the household of the public official any gift of payment of expenses for entertainment.

(c) A person who has a legislative or administrative interest in any governmental agency in which a candidate for public office if elected would hold any official position or over which the candidate if elected would exercise any authority may not offer to the candidate or a relative or member of the household of the candidate any gift of payment of expenses for entertainment.

(5) This section does not apply to public officials subject to the Oregon Code of Judicial Conduct. [2007 c.877 §18]

244.030 [1974 c.72 §24; repealed by 2007 c.865 §41]

244.040 Prohibited use of official position or office; exceptions; other prohibited actions. (1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office.

(2) Subsection (1) of this section does not apply to:

(a) Any part of an official compensation package as determined by the public body that the public official serves.

(b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.

(c) Reimbursement of expenses.

(d) An unsolicited award for professional achievement.

(e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest in a governmental agency in which the official holds any official position or over which the official exercises any authority.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of "gift" in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

(4) A public official may not 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 holding position as a public official or activities of the public official.

(5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

(6) A person may not 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.

(7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120. [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; 2007 c.877 §17]

244.042 Honoraria. (1) Except as provided in subsection (3) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.

(2) Except as provided in subsection (3) of this section, a candidate for public office may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.

(3) This section does not prohibit:

(a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

(b) The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official or candidate. [2007 c.877 §24]

244.045 Regulation of subsequent employment of public officials; lobbying by former members of Legislative Assembly.

(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.

(6) A person who has been a member of the Legislative Assembly may not receive money or any other consideration for lobbying as defined in ORS 171.725 performed during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly that begins after the date the person ceases to be a member of the Legislative Assembly. [1987 c.360 §1; 1993 c.743 §10; 1995 c.79 §86; 1997 c.750 §1; 2007 c.877 §15]

Note: Section 15b, chapter 877, Oregon Laws 2007, provides:

Sec. 15b. (1) For purposes of ORS 244.045 (6), if a special session of the Legislative Assembly is held in calendar year 2008 or 2010, the first special session held in that calendar year is considered a regular session of the Legislative Assembly.

(2) This section is repealed January 1, 2011. [2007 c.877 §15b]

244.047 Financial interest in public contract. (1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 174.109.

(b) "Public contract" has the meaning given that term in ORS 279A.010.

(2) Except as provided in subsection (3) of this section, a person may not, for two years after the person ceases to hold a position as a public official, have a direct beneficial financial interest in a public contract that was authorized by:

(a) The person acting in the capacity of a public official; or

(b) A board, commission, council, bureau, committee or other governing body of a public body of which the person was a member when the contract was authorized.

(3) Subsection (2) of this section does not apply to a person who was a member of a board, commission, council, bureau, committee or other governing body of a public body when the contract was authorized, but who did not participate in the authorization of the contract. [2007 c.877 §23a]

REPORTING

244.050 Persons required to file statement of economic interest; filing deadline. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics 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 any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public 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) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

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

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

(U) Executive Director of Oregon Government Ethics Commission.

(V) Director of the State Department of Energy.

(W) 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.

(j) Every member of a city or county planning, zoning or development commission.

(k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.

(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) Board of Geologic and Mineral Industries.

(B) Oregon Economic and Community Development Commission.

(C) State Board of Education.

(D) Environmental Quality Commission.

(E) Fish and Wildlife Commission of the State of Oregon.

(F) State Board of Forestry.

(G) Oregon Government Ethics Commission.

(H) Oregon Health Policy Commission.

(I) State Board of Higher Education.

(J) Oregon Investment Council.

(K) Land Conservation and Development Commission.

(L) Oregon Liquor Control Commission.

(M) Oregon Short Term Fund Board.

(N) State Marine Board.

(O) Mass transit district boards.

(P) Energy Facility Siting Council.

(Q) Board of Commissioners of the Port of Portland.

(R) Employment Relations Board.

(S) Public Employees Retirement Board.

(T) Oregon Racing Commission.

(U) Oregon Transportation Commission.

(V) Wage and Hour Commission.

(W) Water Resources Commission.

(X) Workers' Compensation Board.

(Y) Oregon Facilities Authority.

(Z) Oregon State Lottery Commission.

(AA) Pacific Northwest Electric Power and Conservation Planning Council.

(BB) Columbia River Gorge Commission.

(CC) Oregon Health and Science University Board of Directors.

(q) The following officers of the State Treasurer:

(A) Chief Deputy State Treasurer.

(B) Chief of staff for the office of the State Treasurer.

(C) Director of the Investment Division.

(r) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.

(s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(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 Oregon Government Ethics 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 deadline for the primary election, each candidate for 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 deadline for the general election, each candidate for public office described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for public office described in subsection (1) of this section at the preceding primary election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates for public office on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350. [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; 2003 c.214 §1; 2003 c.784 §13; 2005 c.157 §6; 2005 c.217 §23; 2005 c.777 §14; 2007 c.813 §2; 2007 c.865 §17; 2007 c.877 §13]

244.055 Additional reporting requirements for State Treasury; review; confidentiality. (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 Ethics 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. [1993 c.743 §26; 2007 c.865 §29]

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 Ethics Commission. The public official or candidate for public office filing the statement shall supply the information required by this section and ORS 244.090, as follows:

(1) The names 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, and the principal address and a brief description of each business.

(2) All names under which the person and members of the household of the person do business and the principal address and a brief description of each business.

(3) The names, principal addresses and brief descriptions of the five most significant sources of income received at any time during the preceding calendar year by the person and by each member of the household of the person, a description of the type of income and the name of the person receiving the income.

(4)(a) A list of all real property in which the public official or candidate for public office 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 holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

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

(5) The name of each member of the household of the person who is 18 years of age or older.

(6) The name of each relative of the person who is 18 years of age or older and not a member of the household of the person. [1974 c.72 §5; 1975 c.543 §4; 1987 c.566 §11; 1991 c.770 §7; 1993 c.743 §12; 2003 c.14 §116; 2007 c.877 §19]

244.070 Additional statement of economic interest. A public official or candidate for public office shall report the following additional economic interest for the preceding calendar year only if the source of that interest is derived from an individual or business that 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 holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority:

(1) Each person to whom the public official or candidate for public office 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 on money owed and the date of the loan, except for debts owed to any federal or state regulated financial institution or retail contracts.

(2) The name, principal address and brief description of the nature of each business in which the public official or candidate for public office 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.

(3) Each person for whom the public official or candidate for public office 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; 2007 c.877 §20]

244.080 [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; repealed by 2007 c.865 §41]

244.090 Report on association with compensated lobbyist. (1) Each public official or candidate required to file a statement of economic interest under this chapter shall include on the statement the name of 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.

(2) Subsection (1) of this section does not apply if the only relationship between the public official or candidate and the lobbyist is that the public official or candidate and lobbyist hold stock in the same publicly traded corporation.

(3) As used in this section, "lobbyist" has the meaning given that term in ORS 171.725. [1974 c.72 §7; 1975 c.543 §6; 1987 c.566 §14; 2007 c.865 §32]

244.100 Statements of expenses, honoraria or income received; statements to be provided to public official. (1) A public official or candidate for public office who is required to file a statement of economic interest under ORS 244.050 shall file with the Oregon Government Ethics Commission, according to the schedule set forth in ORS 244.105, a statement showing for the applicable reporting period:

(a) Any expenses with an aggregate value exceeding \$50 received by the public official when participating in a convention, mission, trip or other meeting described in ORS 244.020 (5)(b)(F). The statement shall include the name and address of the organization or unit of government paying the expenses, the nature of the event and the date and amount of the expenditure.

(b) Any expenses with an aggregate value exceeding \$50 received by the public official when participating in a mission or negotiations or economic development activities described in ORS 244.020 (5)(b)(H). The statement shall include the name and address of the person paying the expenses, the nature of the event and the date and amount of the expenditure.

(c) All honoraria allowed under ORS 244.042 exceeding \$15 received by the public official, candidate or member of the household of the official or candidate, the payer of each honorarium and the date and time of the event for which the honorarium was received.

(d) Each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate for public office, or a member of the household of the public official or candidate, if the source of that income is derived from an individual or business that 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 holds, or the candidate if elected would hold, any official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(2) In addition to statements required under subsection (1) of this section:

(a) Any organization or unit of government that provides a public official with expenses with an aggregate value exceeding \$50 for an event described in ORS 244.020 (5)(b)(F) shall notify the public official in writing of the amount of the expense. The organization or unit shall provide the notice to the public official within 10 days from the date the expenses are incurred.

(b) Any person that provides a public official or a member of the household of a public official with an honorarium or other item allowed under ORS 244.042 with a value exceeding \$15 shall notify the public official in writing of the value of the honorarium or other item. The person shall provide the notice to the public official within 10 days after the date of the event for which the honorarium or other item was received. [1975 c.543 §11; 1991 c.677 §1; 2007 c.865 §6; 2007 c.877 §21a]

244.105 Quarterly filing of statements. Statements required to be filed with the Oregon Government Ethics Commission under ORS 244.100 and 244.217 shall be filed in each calendar year:

(1) Not later than April 15, for the accounting period beginning January 1 and ending March 31;

(2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

(3) Not later than October 15, for the accounting period beginning July 1 and ending September 30; and

(4) Not later than January 15 of the following calendar year, for the accounting period beginning October 1 and ending December 31. [2007 c.877 §23]

244.110 Statements subject to penalty for false swearing. (1) Each statement of economic interest required to be filed under ORS 244.050, 244.060, 244.070, 244.090 or 244.100, or by rule under ORS 244.290, and each trading statement required to be filed under ORS 244.055 shall be signed and certified as true by the person required to file it and shall contain a written declaration that the statement is made under the penalties of false swearing.

(2) A person may not sign and certify a statement under subsection (1) of this section if the person knows that the statement contains information that is false.

(3) Violation of subsection (2) of this section is punishable as false swearing under ORS 162.075. [1974 c.72 §22; 1977 c.588 §5; 2007 c.865 §7]

244.115 Filing required for member of Congress or candidate; filing date. (1) Each member of Congress from this state and each candidate for nomination or election to the office of United States Representative in Congress or United States Senator from this state shall file with the Oregon Government Ethics Commission a copy of the federal ethics filing required under federal law or by congressional rule.

(2) The member or candidate shall file the information required under subsection (1) of this section not later than 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 on the filing that the filing was not made with the commission by the member or candidate.

(3) All filings made under this section are public records available for public inspection. [1991 c.160 §7; 2007 c.865 §33]

CONFLICTS OF INTEREST

244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other 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. (1) When a public official gives notice of an actual or potential conflict of interest, the

public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of time.

(2) A 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 may not 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; 2007 c.865 §9]

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 CHAPTER

244.160 Filing of statement of economic interest by public official of political subdivision other than city or county. (1) 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 with the Oregon Government Ethics Commission.

(2) The political subdivision shall file a copy of the resolution with the commission. [1974 c.72 §9; 2007 c.865 §34]

244.162 Information provided to persons required to file statement of economic interest. (1) A person designated by a public body as defined in ORS 174.109 shall provide information explaining the requirements of ORS 244.050, 244.060, 244.070 and 244.090 to each newly elected or appointed public official serving the public body who is required to file a verified statement of economic interest under ORS 244.050. The in-

formation must be received by the public official either at the first meeting attended by the public official or before the public official takes the oath of office, whichever occurs first.

(2) At the time of fulfilling duties under subsection (1) of this section, the person designated by the public body shall provide to each newly elected or appointed public official serving the public body a copy of the statements and explanation provided to the public body under subsection (3) of this section.

(3) The Oregon Government Ethics Commission shall provide copies of the statements described in ORS 244.060, 244.070 and 244.090 and an explanation of the requirements of the law relating to the statements to each public body that is served by a public official who is required to file a statement described in ORS 244.060, 244.070 or 244.090.

(4) A newly elected or appointed public official serving a public body who is not informed of the filing requirements under ORS 244.050, 244.060, 244.070 and 244.090 and provided with a copy of the statements and explanation as required under this section before attending the first meeting or 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 later, without filing a verified statement of economic interest and without incurring a sanction or penalty that might otherwise be imposed for not filing. [Formerly 244.195]

244.165 Rules or policies of state agency or association of public bodies; commission approval; effect. (1) For the purpose of protecting against violations of the provisions of this chapter, a state agency, as defined in ORS 183.750, or a statewide association of public bodies, as defined in ORS 174.109, may adopt rules or policies interpreting the provisions of this chapter. The rules or policies must be consistent with the provisions of this chapter. A state agency or a statewide association of public bodies may submit rules or policies adopted under this subsection to the Oregon Government Ethics Commission for review.

(2) Upon receiving rules or policies submitted under subsection (1) of this section, the commission shall review the rules and policies to determine whether the rules and policies are consistent with the provisions of this chapter. The commission, by a vote of a majority of the members of the commission, shall approve or reject the rules or policies. The commission shall notify the state agency or statewide association of public bodies in writing of the commission's approval or re-

jection. A written notice of rejection shall explain the reasons for the rejection.

(3) Unless the applicable rule or policy is amended or repealed by the state agency or the statewide association of public bodies, the commission may not impose a penalty under ORS 244.350 or 244.360 on a public official for any good faith action the official takes in compliance with a rule or policy that was adopted by the state agency that the official serves, or by a statewide association of which the public body that the official serves is a member, and approved by the commission under subsection (2) of this section. [2007 c.865 §5; 2007 c.877 §39b]

244.170 [1975 c.216 §1a; repealed by 2003 c.14 §117]

NEPOTISM

244.175 Definitions for ORS 244.177 and 244.179. As used in ORS 244.177 and 244.179:

(1) "Governing body" has the meaning given that term in ORS 192.610.

(2) "Member of the household" means any person who resides with the public official.

(3) "Public body" has the meaning given that term in ORS 174.109.

(4) "Relative" means the spouse or domestic partner of the public official, any children of the public official or of the public official's spouse or domestic partner, and brothers, sisters, half brothers, half sisters, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, mothers-in-law, fathers-in-law, aunts, uncles, nieces, nephews, stepparents, stepchildren or parents of the public official or of the public official's spouse or domestic partner. [2007 c.865 §26b]

244.177 Employment of relative or member of household; exceptions. (1) Except as provided in subsections (2) to (4) of this section:

(a) A public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

(b) A public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the discharge, firing or demotion of a relative or member of the household from, a position with the public body that the public official

serves or over which the public official exercises jurisdiction or control. As used in this paragraph, "participate" does not include serving as a reference, providing a recommendation or performing other ministerial acts that are part of the normal job functions of the public official.

(2) A member of the Legislative Assembly may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position as an unpaid volunteer with the public body that the public official serves or over which the public official exercises jurisdiction or control.

(b) Paragraph (a) of this subsection does not apply to the appointment, employment, promotion, discharge, firing or demotion of a relative or member of the household to a position as an unpaid member of a governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) This section does not prohibit a public body from appointing, employing, promoting, discharging, firing or demoting a person who is a relative or member of the household of a public official serving the public body. [2007 c.865 §26c]

244.179 Supervision of relative or member of household; exceptions. (1) Notwithstanding ORS 659A.309 and except as provided in subsections (2) to (4) of this section, a public official acting in an official capacity may not directly supervise a person who is a relative or member of the household.

(2) A member of the Legislative Assembly may directly supervise a person who:

(a) Is a relative or member of the household; and

(b) Serves as a public official in a position on the personal legislative staff of the member of the Legislative Assembly.

(3)(a) A public official acting in an official capacity may directly supervise a person

who is a relative or member of the household if the person serves as an unpaid volunteer.

(b) Paragraph (a) of this subsection does not apply to service by a person in a position as an unpaid member of a governing body that a public official of whom the person is a relative or member of the household serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household serving as an unpaid volunteer described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) A public body may adopt policies specifying when a public official acting in an official capacity may directly supervise a person who is a relative or member of the household. [2007 c.865 §26d]

244.180 [1975 c.216 §2; 1987 c.566 §16; 2005 c.22 §186; repealed by 2007 c.865 §41]

244.190 [1975 c.216 §3; 1987 c.566 §17; 2005 c.22 §187; repealed by 2007 c.865 §41]

244.195 [1979 c.332 §2; 2007 c.865 §10; renumbered 244.162 in 2007]

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 [1983 c.350 §63 (enacted in lieu of 244.200 and 244.210); 1995 c.712 §95; repealed by 2007 c.865 §41]

LEGAL EXPENSE TRUST FUND

244.205 Legal expense trust fund; establishment; eligible legal expenses. (1) Subject to the authorization of the Oregon Government Ethics Commission as described in ORS 244.209, a public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

(2) Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. The legal expenses must be incurred in connection with:

(a) The issuance of a court's stalking protective order under ORS 30.866 or 163.738;

(b) The issuance of a citation under ORS 163.735;

(c) A criminal prosecution under ORS 163.732;

(d) A civil action under ORS 30.866; or

(e) Defending the public official in a proceeding or investigation brought or maintained by a public body as defined in ORS 174.109.

(3) Except as provided in subsection (2) of this section, a public official may not use proceeds from the trust fund for any personal use.

(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

(5) A public official who establishes a legal expense trust fund may not solicit, receive or handle any contributions to the fund.

(6) The provisions of ORS chapter 130 do not apply to a trust fund established under ORS 244.205 to 244.221. [2007 c.877 §29]

244.207 Use of fund proceeds. (1) The proceeds of a legal expense trust fund may be used to:

(a) Defray legal expenses described in ORS 244.205;

(b) Defray costs reasonably incurred in administering the trust fund, including but not limited to costs incident to the solicitation of funds; and

(c) Discharge any tax liabilities incurred as a result of the creation, operation or administration of the trust fund.

(2) The proceeds of a trust fund may also be used to defray or discharge expenses, costs or liabilities incurred before the fund was established if the expenses, costs or liabilities are related to the legal proceeding for which the fund was established. [2007 c.877 §30]

244.209 Application to establish fund; commission review and authorization. (1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

(a) A copy of an executed trust agreement described in subsection (2) of this section;

(b) A sworn affidavit described in subsection (3) of this section signed by the public official; and

(c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

(a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and

(b) A designation of a trustee who meets the requirements of ORS 244.211.

(3) The affidavit of the public official must state:

(a) The nature of the legal proceeding that requires establishment of the trust fund;

(b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and

(c) That the public official is responsible for the proper administration of the trust fund, even though a trustee of the fund has been designated.

(4) The affidavit of the trustee must state that the trustee:

(a) Has read and understands ORS 244.205 to 244.221; and

(b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221. [2007 c.877 §31]

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

244.211 Duties of trustee; persons ineligible to be trustee. (1) The trustee of a legal expense trust fund is responsible for:

(a) The receipt and deposit of contributions to the trust fund;

(b) The authorization of expenditures and disbursements from the trust fund;

(c) The filing of quarterly statements required under ORS 244.217; and

(d) The performance of other tasks incident to the administration of the trust fund.

(2) The trustee may not:

(a) Be a public official who serves the same public body as the public official who establishes the trust fund;

(b) Be a relative of the public official who establishes the trust fund;

(c) Be an attorney for the public official in the legal proceeding for which the trust fund is established, or a member, partner, associate or employee of the firm employing the attorney; or

(d) Have a business or employment relationship with the public official who establishes the trust fund. [2007 c.877 §32]

244.213 Contributions to fund. (1) Except as provided in subsection (3) of this section, any person may contribute to a legal expense trust fund established under ORS 244.205 to 244.221.

(2) A person may make contributions of moneys to a legal expense trust fund in unlimited amounts. Pro bono legal assistance and other in-kind assistance may also be provided without limit and is considered a contribution subject to the reporting requirements of ORS 244.217.

(3) A political committee as defined in ORS 260.005 that is a principal campaign committee may not contribute to a legal expense trust fund. [2007 c.877 §33]

244.215 Fund account. (1) A trustee of a legal expense trust fund shall establish a single exclusive account in a financial institution, as defined in ORS 706.008. The financial institution must be located in this state and must ordinarily conduct business with the general public in this state.

(2) The trustee shall maintain the account in the name of the trust fund.

(3) All expenditures made by the trustee shall be drawn from the account and:

(a) Issued on a check signed by the trustee; or

(b) Paid using a debit card or other form of electronic transaction.

(4) A contribution received by a trustee shall be deposited into the account not later than seven calendar days after the date the contribution is received. This subsection does not apply to in-kind contributions received.

(5) This section does not prohibit the transfer of any amount deposited in the account into a certificate of deposit, stock fund or other investment instrument.

(6) The account may not include any public or private moneys or any moneys of any other person, other than contributions received by the trustee.

(7) A trustee shall retain a copy of each financial institution account statement from the account described in this section for not

less than two years after the date the statement is issued by the financial institution. [2007 c.877 §34]

244.217 Statement of contributions received and expenditures made. (1) The trustee of a legal expense trust fund shall, according to the schedule described in subsection (3) of this section, file with the Oregon Government Ethics Commission a statement for the applicable reporting period showing contributions received by the trustee and expenditures made from the trust fund account established under ORS 244.215.

(2) Each statement shall list:

(a) The name and address of each person who contributed an aggregate amount of more than \$75, and the total amount contributed by that person;

(b) The total amount of contributions not listed under paragraph (a) of this subsection as a single item, but shall specify how those contributions were obtained;

(c) The amount and purpose of each expenditure and the name and address of each payee; and

(d) The name and address of any person contributing pro bono legal assistance and the fair market value of the assistance provided by the person.

(3) Statements required to be filed with the commission under this section shall be filed according to the schedule described in ORS 244.105.

(4) If no contributions are received and no expenditures made during the reporting period, the trustee shall file a statement indicating that no contributions were deposited and no expenditures were made.

(5) The trustee may amend a statement filed under this section without penalty if the amendment is filed with the commission not later than 30 days after the deadline for filing the statement. [2007 c.877 §35]

244.219 Termination of fund. (1) A legal expense trust fund established under ORS 244.205 to 244.221 may be terminated by:

(a) The public official who established the trust fund;

(b) Subject to subsection (2) of this section, the terms of the trust agreement; or

(c) The Oregon Government Ethics Commission following a determination by the commission that a violation of any provision of this chapter has occurred in connection with the trust fund.

(2) A trust agreement may provide that a legal expense trust fund is terminated not later than six months following the completion of the legal proceeding for which the fund was established. Upon application of the

public official who established the trust fund, the commission may extend the existence of the trust fund to a specified date if the commission determines that the public official has incurred legal expenses that exceed the balance remaining in the fund. If the commission extends the existence of the trust fund, the trust fund terminates on the date the extension expires.

(3) Following termination of a legal expense trust fund, the trustee may not accept contributions to or make expenditures from the fund.

(4) Not later than 30 days after a trust fund is terminated, the trustee of the fund shall file with the commission a final report listing the totals of all contributions made to the fund and all expenditures made from the fund. [2007 c.877 §36]

244.221 Disposition of moneys in terminated fund; distribution of award of attorney fees, costs or money judgment.

(1) Not later than 30 days after a legal expense trust fund is terminated, the trustee of the fund shall return any moneys remaining in the fund to contributors to the fund on a pro rata basis.

(2) If the legal proceeding for which the trust fund was established results in an award of attorney fees, costs or any other money judgment award to or in favor of the public official, amounts awarded shall be distributed in the following order:

(a) To pay outstanding legal expenses;

(b) To contributors to the trust fund on a pro rata basis; and

(c) To the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code. [2007 c.877 §37]

COMMISSION

244.250 Oregon Government Ethics Commission; appointment; term; quorum; compensation; legal counsel. (1) The Oregon Government Ethics Commission is established, consisting of seven members.

The appointment of a member of the commission is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Members shall be appointed in the following manner:

(a) The Governor shall appoint four members 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, the leadership shall recommend another person.

(b) The Governor shall appoint three members without leadership recommendation. No more than two members appointed under this paragraph may be members of the same major political party.

(2) A person who holds any public office listed in ORS 244.050 (1) except as a member of the commission may not be appointed to the commission. No more than four members may be members of the same political party.

(3) The term of office of a member is four years. A member is not eligible to be appointed to more than one full term but may serve out an unexpired 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 a final decision may not be made without an affirmative vote of a 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 must be a member of the Oregon State Bar and who is responsible to the commission. The appointment of legal counsel under this subsection may 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 the representation:

(a) Would create or tend to create a conflict of interest; and

(b) Is not subject to ORS 180.230 or 180.235.

(8) The Attorney General may 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; 2007 c.865 §1]

244.255 Commission funding. (1) The Oregon Government Ethics Commission shall estimate in advance the expenses that it will incur during a biennium in carrying out the provisions of ORS 171.725 to 171.785 and 171.992 and this chapter. The commission shall also determine what percentage of the expenses should be borne by the following two groups of public bodies:

(a) Public bodies in state government; and

(b) Local governments, local service districts and special government bodies that are subject to the Municipal Audit Law.

(2) The commission shall charge each public body for the public body's share of the expenses described in subsection (1) of this section for the biennium. The amount to be charged each public body shall be determined as follows:

(a) The commission shall determine the rate to be charged public bodies in state government. The same rate shall be applied to each public body described in this paragraph. To determine the amount of the charge for each public body, the commission shall multiply the rate determined under this paragraph by the number of public officials serving the public body.

(b) The commission shall set the charge for local governments, local service districts and special government bodies that are subject to the Municipal Audit Law so that each local government, local service district or special government body described in this paragraph pays an amount of the total expenses for the group that bears the same proportion to the total expenses that the amount charged to the local government, local service district or special government body for the municipal audit fee under ORS 297.485 bears to the total amount assessed for the municipal audit fee.

(3) Each public body shall pay to the credit of the commission the charge described in this section as an administrative expense from funds or appropriations available to the public body in the same manner as other claims against the public body are paid.

(4) All moneys received by the commission under this section shall be credited to the Oregon Government Ethics Commission Account established under ORS 244.345.

(5) The commission shall adopt rules specifying the methods for calculating and collecting the rates and charges described in this section.

(6) As used in this section:

(a) "Local government" and "local service district" have the meanings given those terms in ORS 174.116.

(b) "Public body" has the meaning given that term in ORS 174.109.

(c) "Public official," notwithstanding ORS 244.020 (13), means any person who, on the date the commission charges the public body under this section, is serving the public body as an officer or employee.

(d) "Special government body" has the meaning given that term in ORS 174.117.

(e) "State government" has the meaning given that term in ORS 174.111. [2007 c.877 §2]

Note: Section 3, chapter 877, Oregon Laws 2007, provides:

Sec. 3. The Oregon Government Ethics Commission shall first impose charges under section 2 of this 2007 Act [244.255] for the biennium beginning July 1, 2009. [2007 c.877 §3]

244.260 Complaint and adjudicatory process; confidential Preliminary Review Phase; Investigatory Phase; possible actions by order; report of findings; contested case procedure; limitation on commission action. (1)(a) Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of this chapter or of any rule adopted by the commission under this chapter. The complaint shall state the person's reason for believing that a violation occurred and include any evidence relating to the alleged violation.

(b) If at any time the commission has reason to believe that there has been a violation of a provision of this chapter or of a rule adopted by the commission under this chapter, the commission may proceed under this section on its own motion as if the commission had received a complaint.

(2)(a) Not later than two business days after receiving a complaint under this section, the commission shall notify the person who is the subject of the complaint.

(b) Before approving a motion to proceed under this section without a complaint, the commission shall provide notice to the person believed to have committed the violation of the time and place of the meeting at which the motion will be discussed. If the commission decides to proceed on its own motion, the commission shall give notice to the person not later than two business days after the motion is approved.

(c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of this subsection by mail and by telephone if the person can be reached by telephone. The notice must describe the nature of the alleged violation. The mailed notice must include copies of all materials submitted with a complaint. If the commission will consider a motion to proceed without a complaint, the notice must provide copies of all materials that the commission will consider at the hearing on the motion.

(3) After receiving a complaint or deciding to proceed on its own motion, the commission shall undertake action in the Preliminary Review Phase to determine whether there is cause to undertake an investigation. If the person who is the subject of the action is a member of the Legislative

Assembly, the commission shall determine whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(4)(a) The Preliminary Review Phase begins on the date the complaint is filed or the date the commission decides to proceed on its own motion and ends on the date the commission determines there is cause to undertake an investigation, dismisses the complaint or rescinds its own motion. The Preliminary Review Phase may not exceed 135 days unless:

(A) A delay is stipulated to by both the person who is the subject of action under this section and the commission with the commission reserving a portion of the delay period to complete its actions; or

(B) A complaint is filed under this section with respect to a person who is a candidate for elective public office, the complaint is filed within 61 days before the date of an election at which the person is a candidate for nomination or election and a delay is requested in writing by the candidate. If the candidate makes a request under this subparagraph, the Preliminary Review Phase must be completed not later than 135 days after the date of the first meeting of the commission that is held after the date of the election.

(b) During the Preliminary Review Phase, the commission may 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 to undertake an investigation or whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(c) The Preliminary Review Phase is confidential. Commission members and staff may acknowledge receipt of a complaint but may not make any 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.

(d) At the conclusion of the Preliminary Review Phase, the commission shall conduct its deliberations in executive session. All case related materials and proceedings shall be open to the public after the commission makes a finding of cause to undertake an in-

vestigation, 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.

(e) 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.

(5)(a) If the commission determines that there is not cause to undertake an investigation or 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 formally enter the dismissal or rescission in its records. The commission shall notify the person who is the subject of action under this section of the dismissal or rescission. After dismissal or rescission, the commission may not take further action involving the person unless a new and different complaint is filed or action on the commission's own motion is undertaken based on different conduct.

(b) If the commission makes a finding of cause to undertake an investigation, the commission shall undertake action in the Investigatory Phase. The commission shall notify the person who is the subject of the investigation, identify the issues to be examined and confine the investigation to those issues. If the commission finds reason to expand the investigation, the commission shall move to do so, record in its minutes the issues to be examined before expanding the scope of its investigation and formally notify the complainant, if any, and the person who is the subject of the investigation of the expansion and the scope of the investigation.

(6)(a) The Investigatory Phase begins on the date the commission makes a finding of cause to undertake an investigation and ends on the date the commission dismisses the complaint, rescinds its own motion, issues a settlement order, moves to commence a contested case proceeding or takes other action justified by the findings. The Investigatory Phase may not exceed 180 days unless a delay is stipulated to by both the person who is the subject of action under this section and the commission with the commission re-

serving a portion of the delay period to complete its actions.

(b) During the Investigatory Phase, the commission may seek 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 paragraph or refuses to testify on any matters on which the person may be lawfully interrogated, the commission shall follow the procedure described in ORS 183.440 to compel compliance.

(c) 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.

(d) At the end of the Investigatory Phase, the commission shall take action by order. The action may include:

(A) Dismissal, with or without comment;

(B) Continuation of the investigation for a period not to exceed 30 days for the purpose of additional fact-finding;

(C) Moving to a contested case proceeding;

(D) Entering into a negotiated settlement; or

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

(e) The commission may move to a contested case proceeding if the commission determines that the information presented to the commission is sufficient to make a preliminary finding of a violation of any provision of this chapter or of any rule adopted by the commission under this chapter.

(7) A person conducting any inquiry or investigation under this section shall:

(a) Conduct the inquiry or investigation in an impartial and objective manner; and

(b) Provide to the commission all favorable and unfavorable information the person collects.

(8) The commission shall report the findings of any inquiry or investigation in an impartial manner. The commission shall report both favorable and unfavorable findings and shall make the findings available to:

(a) The person who is the subject of the inquiry or investigation;

- (b) The appointing authority, if any;
- (c) The Attorney General, if the findings relate to a state public official;
- (d) The appropriate district attorney, if the findings relate to a local public official; and
- (e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge.
- (9) Hearings conducted under this chapter must be held before an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. The procedure shall be that for a contested case under ORS chapter 183.
- (10) The Oregon Government Ethics Commission may not inquire into or investigate any conduct that occurred more than four years before a complaint is filed or a motion is approved under subsection (1) of this section.
- (11) This section does not prevent the commission and the person alleged to have violated any provision of this chapter or any rule adopted by the commission under this chapter from stipulating to a finding of fact concerning the violation and consenting to an appropriate penalty. The commission shall enter an order based on the stipulation and consent.

(12) At any time during proceedings conducted under this section, the commission may enter into a negotiated settlement with the person who is the subject of action under this section.

(13) 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 §§51,52; 1999 c.850 §1; 2003 c.75 §30; 2007 c.865 §23]

244.270 Findings as grounds for removal; notice to public bodies. (1) If the Oregon Government Ethics Commission finds that an appointed public official has violated any provision of this chapter or any rule adopted under this chapter, the finding is 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.

(2) If the commission finds that a public official has violated any provision of this chapter or any rule adopted under this chapter, the commission shall notify the public body, as defined in ORS 174.109, that the public official serves. The notice shall describe the violation and any action taken by the commission. The commission shall provide the notice not later than 10 business days after the date the commission takes final action against the public official. [1974 c.72 §14; 1977 c.588 §7; 2007 c.865 §11]

244.280 Commission advisory opinions; effect of reliance on opinion. (1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

(2) Not later than 60 days after the date the commission receives the written request for a commission advisory opinion, the commission shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The commission may ask the person requesting the advisory opinion to supply additional information the commission considers necessary to render the opinion. The commission, by vote of a majority of the members of the commission, may extend the 60-day deadline by one period not to exceed 60 days.

(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission may not impose a penalty under ORS 244.350 or 244.360 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission may impose a penalty under ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission determines that the person omitted or misstated material facts in making the request. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

244.282 Executive director advisory opinions; effect of reliance on opinion. (1) Upon the written request of any person, the

executive director of the Oregon Government Ethics Commission may issue and publish written staff advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance.

(2) Not later than 30 days after the date the executive director receives the written request for a staff advisory opinion, the executive director shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The executive director may ask the person requesting the advisory opinion to supply additional information the executive director considers necessary to render the opinion. The executive director may extend the 30-day deadline by one period not to exceed 30 days. The executive director shall clearly designate an opinion issued under this section as a staff advisory opinion.

(3) Except as provided in this subsection, unless the staff advisory opinion is revised or revoked, before imposing any penalty under ORS 244.350 or 244.360, the commission shall consider whether the action that may be subject to penalty was taken in reliance on a staff advisory opinion issued under this section. If a penalty may be imposed on the person who requested the opinion, the commission is not required to consider reliance on the opinion if the commission determines that the person omitted or misstated material facts in making the request.

(4) At each regular meeting of the commission, the executive director shall report to the commission on all staff advisory opinions issued since the last regular meeting of the commission. The commission on its own motion may issue a commission advisory opinion under ORS 244.280 on the same facts or circumstances that form the basis for any staff advisory opinion. [2007 c.865 §14; 2007 c.877 §39c]

244.284 Staff advisory opinions; effect of reliance on opinion. (1) Upon the written or oral request of any person, the executive director or other staff of the Oregon Government Ethics Commission may issue written or oral staff advice on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. Any written advice not designated as a staff advisory opinion under ORS 244.282 is considered staff advice issued under this section.

(2) Before imposing any penalty under ORS 244.350 or 244.360, the commission may consider whether the action that may be subject to penalty was taken in reliance on staff advice issued under this section. [2007 c.865 §15; 2007 c.877 §39d]

244.290 General duties of commission; rules. (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

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

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall 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;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

(e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

(f) Describe the application of provisions exempting items from the definition of “gift” in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in ORS 244.025;

(g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

(h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of “potential conflict of interest” under ORS 244.020;

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for public office;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

(d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate for public office certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.

(4) Not less frequently than once each calendar year, the commission shall:

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates for public office or that are addressed by the commission or by commission staff on a recurring basis; and

(b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050, 244.100 and 244.217 may be filed, without a fee, with the commission in an electronic format. The commission shall accept statements filed under ORS 244.050, 244.100 and 244.217 in a format that is not electronic.

(6) The commission shall make statements filed under ORS 244.050, 244.100 and

244.217, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet. [1974 c.72 §17; 1987 c.566 §20; 1993 c.743 §23; 2007 c.865 §3; 2007 c.877 §9c]

Note: The amendments to 244.290 by section 9d, chapter 877, Oregon Laws 2007, become operative January 1, 2010. See section 9e, chapter 877, Oregon Laws 2007. The text that is operative on and after January 1, 2010, is set forth for the user’s convenience.

244.290. (1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

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

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall 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;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

(e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

(f) Describe the application of provisions exempting items from the definition of “gift” in ORS 244.020 (5)(b) and the application of the prohibition on entertainment contained in ORS 244.025;

(g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

(h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of “potential conflict of interest” under ORS 244.020;

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for public office;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

(d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate for public office certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.

(4) Not less frequently than once each calendar year, the commission shall:

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates for public office or that are addressed by the commission or by commission staff on a recurring basis; and

(b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050, 244.100 and 244.217 must be filed, without a fee, with the commission in an electronic format.

(6) The commission shall make statements filed under ORS 244.050, 244.100 and 244.217 available in a searchable format for review by the public using the Internet.

244.300 Status of records. (1) Records of the Oregon Government Ethics Commission are public records of this state.

(2) All information submitted to the commission in any statement required under this chapter is a public record. [1974 c.72 §18; 1977 c.588 §9; 2007 c.865 §35]

244.310 Executive director. (1) The Oregon Government Ethics Commission shall appoint an executive director to serve at the pleasure of the commission.

(2) The executive director is 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.

(3) The commission may not delegate the power to adopt rules or issue commission advisory opinions to the executive director. The executive director may issue staff advisory opinions as provided in ORS 244.282. [1974 c.72 §16; 2007 c.865 §16]

244.320 Manual on government ethics; revision. (1) The Oregon Government Ethics Commission shall prepare and publish 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. The manual shall set forth recommended uniform reporting methods for use by persons filing statements under this chapter.

(2) In preparing the manual, the commission shall consider the format of the manual prepared by the Attorney General to guide public officials and the public in the requirements of ORS chapter 192.

(3) The commission shall update the manual as often as the commission believes necessary but no less frequently than once every four years.

(4) The commission shall make copies of the manual available in an electronic format on the Internet. [1991 c.522 §2; 2007 c.865 §36]

244.330 Distribution of manual on government ethics. The Oregon Government Ethics 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 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.

244.340 Continuing education program. The Oregon Government Ethics Commission shall prepare and present a program of continuing education for public officials. The commission may use its own staff or may contract for the preparation or presentation of the program of continuing education. [1993 c.714 §5; 2007 c.865 §37]

244.345 Oregon Government Ethics Commission Account. The Oregon Government Ethics Commission Account is established separate and distinct from the General Fund. All moneys received by the Oregon Government Ethics 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; 2007 c.865 §40a]

ENFORCEMENT

244.350 Civil penalties; letter of reprimand or explanation. (1) The Oregon Government Ethics Commission may impose civil penalties not to exceed:

(a) Except as provided in paragraph (b) of this subsection, \$5,000 for violation of any provision of this chapter or any resolution adopted under ORS 244.160.

(b) \$25,000 for violation of ORS 244.045.

(2)(a) Except as provided in paragraph (b) of this subsection, the commission may im-

pose civil penalties not to exceed \$1,000 for violation of any provision of ORS 192.660.

(b) 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) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708. A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that may be imposed under subsection (1) of this section.

(4)(a) The commission may impose civil penalties on a person who fails to file the statement required under ORS 244.050, 244.100 or 244.217. In enforcing this subsection, the commission is not required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050, 244.100 or 244.217 has occurred.

(b) Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 244.050, 244.100 or 244.217.

(c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

(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.

(5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education. [1974 c.72 §19; 1977 c.588 §10; 1987 c.360 §3; 1993 c.743 §29; 1993 c.747 §2; 1997 c.750 §2; 2005 c.179 §3; 2007 c.865 §18; 2007 c.877 §11a]

244.355 Failure to file trading statement. A person who intentionally fails to file a complete and accurate statement under ORS 244.055 commits a Class C felony. [2007 c.865 §31]

244.360 Additional civil penalty equal to twice amount of financial benefit. In addition to civil penalties imposed under ORS 244.350, if a public official has financially benefited the public official or any other person by violating any provision of this chapter, the Oregon Government Ethics Commission may impose upon the public official a civil penalty in an amount equal to twice the amount the public official or other person realized as a result of the violation. [1974 c.72 §20; 1987 c.566 §21; 2007 c.865 §19; 2007 c.877 §12a]

244.370 Civil penalty procedure; disposition of penalties. (1) Any civil penalty under ORS 244.350 or 244.360 shall be imposed in the manner prescribed by ORS 183.745.

(2) Notwithstanding ORS 183.745, a hearing is required in all cases prior to imposition of a penalty unless the public official or candidate waives the hearing. The public official or candidate to whom the notice is addressed has 10 days from the date of service of the notice in which to waive a hearing before the Oregon Government Ethics Commission and the public official or candidate 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; 2007 c.865 §25]

244.380 Additional sanctions for failure to file statement of economic interest. (1) If the Oregon Government Ethics Commission has imposed a civil penalty under ORS 244.350 on a public official or candidate for failing to file a statement of economic interest required under this chapter or a resolution adopted under ORS 244.160 and the public official or candidate continues to refuse to file the statement, the following apply:

(a) The commission shall notify the Oregon Department of Administrative Services or the local public body, as defined in ORS 174.109, that the public official serves of the failure to file a statement of economic interest. Except for judges, during the period beginning on the date the department or public body receives notice from the commission and ending on the date the public official files the statement of economic interest, the department or public body may not pay compensation to the public official and the public official may not begin or continue to exercise the official duty of the public official. In the case of a public official who does not receive compensation, the public official may not begin or continue to exercise the official duty of the public official until the public official files the statement of economic interest.

(b) In the case of a candidate for public office, the commission shall notify the appropriate chief elections officer of the candidate's 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 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.

(3) As used in this section, "chief elections officer" has the meaning given that term in ORS 254.005. [1974 c.72 §23; 1975 c.543 §12; 1977 c.588 §12; 1987 c.566 §22; 1995 c.607 §69; 2007 c.865 §20]

244.390 Status of penalties and sanctions; consideration of other penalties imposed. (1) A penalty or sanction imposed by the Oregon Government Ethics Commission under this chapter is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law.

(2) Before making a finding that there is cause to undertake an investigation under ORS 244.260 and before imposing a civil penalty under ORS 244.350 or 244.360, the commission shall consider the public interest and any other penalty or sanction that has been or may be imposed on the public official as a result of the same conduct that is the subject of action by the commission under ORS 244.260.

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

(a) Any statute requiring disclosure of economic interest by any public official or candidate for public office.

(b) Any statute prohibiting or authorizing specific conduct on the part of any public official or candidate for public office. [1974 c.72 §25; 2007 c.865 §2; 2007 c.877 §39a]

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

(2) Upon prevailing following a contested case hearing or lawsuit, the person may petition the Marion County Circuit Court for the purpose of determining the award of reasonable attorney fees. The Oregon Government Ethics 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) An appellate court shall award reasonable attorney fees to the person if the person prevails on appeal from any decision of the commission.

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

(5) Any attorney fees awarded to the person pursuant to this section shall be paid by the commission from moneys appropriated or allocated to the commission from the General Fund. [1991 c.770 §9; 1993 c.743 §30; 2007 c.865 §26]

CHAPTER 245

[Reserved for expansion]