

# Chapter 177

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## Secretary of State

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**EXECUTIVE BRANCH; ORGANIZATION**

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**177.010 Oath and bond.** The Secretary of State, before entering upon the duties of office, shall take and subscribe the oath required by the Constitution, and give a bond, with sufficient sureties, to the State of Oregon, in the sum of \$10,000, conditioned for the faithful discharge of the duties of office as Secretary of State and as Auditor, and that the Secretary of State will deliver over to a successor in the office of the Secretary of State, or to any other person authorized by law to receive the same, all moneys, books, records and all papers pertaining to the office. The bond shall be approved by the Governor and, together with the oath of office, shall be preserved in the executive office. [Amended by 1977 c.366 §1]

**177.020 Successive recoveries on bond.** One recovery had on the official bond given by the Secretary of State shall not render the bond void, but the bond may be prosecuted upon a breach thereof, from time to time, until the whole penalty is collected.

**177.030 Duties of Secretary of State.** The Secretary of State shall:

(1) Keep a record of the official acts of the Oregon Department of Administrative Services and, when required, lay the same and all matters relative thereto before each branch of the legislature.

(2) Affix the seal of the state to, and countersign all commissions and other official acts issued or done by the Governor, approbation by the Governor of the laws excepted, and make a register of such commissions, specifying to whom given or granted, the office conferred, with the date and tenor of the commission, in a book to be provided for that purpose.

(3) Be charged with the safekeeping of all enrolled laws and resolutions and not permit them to be taken out of the office or inspected, except in the presence of the Secretary of State, unless by order of the Governor, or by resolution of one or both houses of the legislature, under penalty of \$100.

(4) Keep the office open during business hours at all times, Sundays excepted. [Amended by 2003 c.14 §72]

**177.040 Deputy Secretary of State.** The Secretary of State may appoint in writing one Deputy Secretary of State who shall hold the office during the pleasure of the Secretary of State. The Secretary of State is responsible for the acts of the Deputy Secretary of State. The Deputy Secretary of State shall qualify by taking the oath of the principal, to be indorsed upon and filed with the certificate of appointment, and when so qualified the Deputy Secretary of State has the power to perform any act or duty of the

Secretary of State pertaining to the office. [Amended by 1981 c.528 §2]

**177.050 Employment and administration of personnel; merit system; rules.** (1) The Secretary of State may employ and appoint necessary personnel, including clerks and assistants, to aid in the performance of the duties of the office of the Secretary of State.

(2) The personnel shall be paid out of the State Treasury, and their compensation may not exceed the appropriation of the Legislative Assembly for the compensation.

(3) Except as provided in subsection (4) of this section, ORS chapter 240 does not apply to the office of the Secretary of State.

(4) ORS 240.165, 240.167, 240.240 (3) and 240.321 apply to the office of the Secretary of State.

(5) The Secretary of State shall adopt rules, policies and procedures necessary to establish a system of personnel administration based on merit principles. The system must include provisions for the transfer of accumulated leave with pay between the office of the Secretary of State and other state agencies. For employees who do not serve at the pleasure of the Secretary of State or who are not subject to a collective bargaining agreement, the system must provide standards for discipline and dismissal and a process for appeal of decisions related to discipline and dismissal.

(6) The clerks and assistants shall take an oath to support the Oregon Constitution and faithfully to discharge the duties of their positions. [Amended by 1955 c.287 §17; 1981 c.528 §3; 2005 c.751 §1]

**177.060 Designation of persons to sign in name of Secretary of State.** The Secretary of State may designate one or more of the secretary's clerks or assistants, in the secretary's name, to sign or countersign or sign and countersign vouchers, official acts of the Governor or the Legislative Assembly and other papers, documents and certificates requiring the signature of the Secretary of State. [Amended by 1981 c.528 §4; 1983 c.740 §42]

**177.065 Authority of Secretary of State to attest to authenticity of official acts of public officials.** The Secretary of State shall have the authority to attest to the authenticity of the official acts of public officials in the State of Oregon that are described in ORS 7.130, 194.525 (1)(b), 205.110, 205.140 and 205.220. [2011 c.359 §6]

**177.070 Bonds for clerks or positions.** The Secretary of State may require corporate surety bonds executed by a company licensed to transact business in the State of Oregon for the clerks or positions the Secretary of State deems proper. The surety bonds shall

run to the State of Oregon in the amounts the Secretary of State approves. The premiums for the surety bonds shall be paid by the State of Oregon.

**177.075 Authority of Secretary of State to require fingerprints.** For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the Secretary of State may require the fingerprints of a person who:

(1)(a) Is employed or applying for employment by the Secretary of State; or

(b) Provides services or seeks to provide services to the Secretary of State as a contractor; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or information that is defined as confidential under state or federal laws, rules or regulations;

(c) That has fiscal, payroll or purchasing responsibilities as one of the position's primary responsibilities;

(d) In which the person has responsibility for conducting audits; or

(e) In which the person has access to personal information about employees or members of the public including Social Security numbers, dates of birth, driver license numbers, personal financial information or criminal background information. [2005 c.730 §52]

**177.080 Acts of Congress and of states to be deposited in State of Oregon Law Library.** The Secretary of State shall cause the Acts of the Congress of the United States, and of the several states, which may be received at the office of the Secretary of State, to be deposited in the State of Oregon Law Library. [Amended by 2001 c.779 §7]

**177.090** [Repealed by 1993 c.98 §26]

**177.100** [Repealed by 1953 c.224 §4]

**177.110 Oregon Guide.** The Secretary of State may provide for the distribution or sale of the Oregon Guide, a publication edited and compiled under the auspices of the United States Government, relating to the scenery, natural resources, history and general information of the State of Oregon, under the terms and conditions deemed

advisable by the Oregon State Board of Control. All moneys realized from the sale and distribution of the Oregon Guide shall be placed to the credit of the General Fund.

**177.120 Oregon Blue Book.** (1) The Secretary of State shall compile and issue on or about February 15 of each odd-numbered year, an official directory of all state officers, state institutions, boards and commissions and district and county officers of the state, to be known as the Oregon Blue Book, and include therein the information regarding their functions that the secretary considers most valuable to the people of the state, together with such other data and information as usually is included in similar publications. The Secretary of State may cause the Oregon Blue Book to be copyrighted.

(2) In order to fully carry out the intent and purposes of this section, the Secretary of State may request of any state, district and county officials any information concerning their offices, institutions or departments that the secretary desires to include in the Oregon Blue Book. The officials shall furnish the information.

(3) The Secretary of State may distribute the Oregon Blue Book free of charge, under such regulations as the secretary may establish, to schools and to federal, state, county and city officials of the State of Oregon. The copies distributed under this subsection shall not be sold.

(4) The Secretary of State shall determine a reasonable price, and charge such price, for each copy of the Oregon Blue Book distributed to the general public. The secretary may also establish a discount price for dealers and shall set the price for resale by dealers in order to maintain a uniform price. The sum collected shall be paid over to the State Treasurer and credited to the Secretary of State Miscellaneous Receipts Account established under ORS 279A.290. [Amended by 1953 c.586 §1; 1967 s.s. c.10 §1; 1973 c.126 §1; 1981 c.467 §1; 1991 c.169 §1; 2003 c.794 §198; 2011 c.545 §72]

**177.130 Fees of the Secretary of State.**

(1) The Secretary of State shall establish a schedule of fees to be charged in the office of the Secretary of State for furnishing a copy of, recording, or certifying and affixing the state seal to any document; for issuing certificates of official character; and for affixing the state seal to and countersigning or attesting any document issued by the Governor. The fees shall be reasonably calculated to reimburse the office for the cost thereof. No fee, however, shall be charged for affixing the state seal and countersigning or attesting pardons, commutations, paroles, military commissions, extradition papers, certificates of election to state and district officers and commissions and appointments

under which the appointee receives no compensation.

(2) No member of the legislature or state officer shall be charged any fee for any certificate or certified copy relative to the official duties of the member or officer.

(3) This section does not apply to any commission issued by the Governor. [Amended by 1961 c.350 §1; 1975 c.720 §1; 1981 c.11 §3]

**177.140 Secretary of State Administration Division Account.** There is established in the General Fund an account to be known as the Secretary of State Administration Division Account. All moneys received by the Secretary of State for administrative service charges shall be deposited in the account. All moneys in the Secretary of State Administration Division Account are appropriated continuously to the Secretary of State for payment of expenses incurred in performing the duties and functions of the Secretary of State that provide policy directions and centralized support services to the divisions and boards of the agency. [1989 c.112 §5]

**177.150 Record required for Secretary of State Miscellaneous Receipts Account.** The Secretary of State shall cause a record to be kept of all moneys paid into the Secretary of State Miscellaneous Receipts Account established under ORS 279A.290. Together with other matters, the record shall indicate, by separate account, the source from which the moneys paid in are derived and the activity or program against which any payment or withdrawal is charged. [1991 c.169 §4; 2003 c.794 §199]

**177.170 Government Waste Hotline; acceptance of other reports; purpose; notice.** (1) The Secretary of State shall establish a toll-free telephone line that is available to public employees and members of the public for the purpose of reporting waste, inefficiency or abuse by state agencies, state employees or persons under contract with state agencies.

(2) In addition to establishing a toll-free telephone line under subsection (1) of this section, the secretary shall also accept reports of waste, inefficiency or abuse by state agencies, state employees or persons under contract with state agencies made to the secretary by any other method.

(3) The toll-free telephone line required to be established under subsection (1) of this section shall be known as the Government Waste Hotline. The secretary shall prepare written notices that explain the purpose of the Government Waste Hotline and that prominently display the telephone number for the Government Waste Hotline. The notice shall be posted in all state offices. If a

state office is open to members of the public, the notice shall be posted in a place where the public is most likely to see the notice.

(4) The secretary shall publicize the availability of the Government Waste Hotline through print and electronic media. [1995 c.138 §1; 2007 c.185 §1]

**177.180 Reports received through Government Waste Hotline or by other method; confidentiality; investigation; written determination; annual report to Legislative Assembly.** (1) The Secretary of State shall designate one person employed by the Division of Audits of the Office of the Secretary of State to be responsible for reports of waste, inefficiency or abuse received through the Government Waste Hotline or received by the secretary through any other method. The person designated under this section shall log all reports received.

(2) Except as provided in subsection (3) or (5) of this section, the identity of any person calling the Government Waste Hotline or otherwise making a report under ORS 177.170 is confidential. A person making a report under ORS 177.170 may waive the confidentiality otherwise granted under this subsection.

(3) The secretary shall conduct an initial investigation of each report of waste, inefficiency or abuse made under ORS 177.170. Following the initial investigation, the secretary shall determine which reports shall be investigated further and assign the investigation to audit staff qualified to conduct waste, inefficiency and abuse investigations. The secretary may audit any state agency if it appears that officers or employees of the agency, or persons under contract with the agency, are engaging in activities that constitute waste, inefficiency or abuse. Notwithstanding subsection (2) of this section:

(a) If the secretary determines during the investigation that a violation of any provision of ORS chapter 244 may be occurring or may have occurred, the secretary shall notify the Oregon Government Ethics Commission of the potential violation; and

(b) If the secretary determines during the investigation that fraud or other criminal activity may be occurring or may have occurred, the secretary shall notify the appropriate law enforcement agency of the potential fraud or other criminal activity.

(4) Except as provided in subsection (3) or (5) of this section, an investigation of a report of waste, inefficiency or abuse received under ORS 177.170 is confidential unless the secretary finds that waste, inefficiency or abuse has occurred and reports these determinations as provided under subsection (6) of this section or determines

not to investigate following an initial investigation under subsection (3) of this section. If the secretary finds that waste, inefficiency or abuse has occurred, the investigation and any determinations made are confidential until the investigation described in subsection (3) of this section is complete. A determination by the secretary not to investigate following an initial investigation constitutes completion of the investigation.

(5) Notwithstanding subsections (2) and (4) of this section, the secretary may convey the contents of a report of waste, inefficiency or abuse made under ORS 177.170 to a public body, as defined in ORS 174.109, unless the person making the report under ORS 177.170 objects to disclosure of the report to the public body.

(6) Subject to the confidentiality requirements of subsection (2) of this section, upon completion of an investigation under this section:

(a) The secretary shall determine in writing whether officers or employees of a state agency, or persons under contract with a state agency, are engaging in activities that constitute waste, inefficiency or abuse. The written determination may include other information about the nature of the investigation or the secretary's determination.

(b) If the secretary finds that waste, inefficiency or abuse has occurred, upon request of the person who made the report under ORS 177.170, the secretary shall provide the person with a copy of the determination and any other information included by the secretary.

(c) If the secretary determines that officers or employees of another state agency or public body, or persons under contract with a state agency or public body, are involved in activities that constitute waste, inefficiency or abuse, the secretary shall notify the state agency or public body of the determination and deliver a copy of the secretary's findings to the agency or body.

(7) A written determination prepared by the secretary under this section is a public record. Following the completion of an investigation, or a determination not to investigate beyond an initial investigation, all documents, information or other records relating to the investigation are disclosable public records under ORS 192.410 to 192.505 unless an exemption from disclosure set forth in a provision of law other than this section applies to the records, except that the identity of the person making the report under ORS 177.170 shall remain confidential.

(8) The secretary shall prepare an annual report and submit it to each regular session of the Legislative Assembly. The report shall

describe the number, nature and resolution of reports made under ORS 177.170 and shall identify savings resulting from improved efficiencies or the elimination of waste or abuse resulting from reports received and investigations conducted under this section and ORS 177.170. The report shall also list the number and nature of any positive reports received relating to state agencies, state employees or persons under contract with state agencies. [1995 c.138 §2; 2007 c.185 §2; 2011 c.221 §1; 2011 c.545 §73]

**177.190 Purchase of state flags for Armed Forces by Secretary of State.** Upon written request and at the discretion of the Secretary of State, the Secretary of State is authorized to purchase and furnish an Oregon State Flag to units or to individual Oregon members of the Armed Forces of the United States serving at home or abroad. The cost of furnishing such flags shall be paid out of funds appropriated or made available from other sources to the Secretary of State to carry out the purpose of this section. [Formerly 279.795]

**177.200 Portfolio-based management of information technology resources.** (1) The Secretary of State shall implement portfolio-based management of information technology resources, as described in this section, to:

(a) Ensure that the Office of the Secretary of State links its information technology investments with business plans;

(b) Facilitate risk assessment of information technology projects and investments;

(c) Ensure that the office justifies information technology investments on the basis of sound business cases;

(d) Ensure that the office facilitates development and review of information technology performance related to business operations;

(e) Identify projects that can cross agency and program lines to leverage resources; and

(f) Assist in state government-wide planning for common, shared information technology infrastructure.

(2) The Secretary of State shall integrate strategic and business planning, technology planning and budgeting and project expenditure processes into the Secretary of State's information technology portfolio-based management.

(3) The Secretary of State shall conduct and maintain a continuous inventory of current and planned investments in information technology, a compilation of information about those assets and the total life cycle cost of those assets.

(4) The Secretary of State shall develop and implement standards, processes and procedures for the required inventory and for the management of the information technology portfolio.

(5) As used in this section, “information technology” has the meaning given that term in ORS 184.473. [2001 c.936 §7]

**EXECUTIVE BRANCH; ORGANIZATION**

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