

# Senate Bill 861

Sponsored by COMMITTEE ON RULES (at the request of Money in Politics Research Action Project)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies content of statement of economic interest required to be filed with Oregon Government Standards and Practices Commission.

Directs Oregon Government Standards and Practices Commission to charge public bodies amount based on number of public officials serving public body for purposes of funding activities of commission.

Directs Oregon Government Standards and Practices Commission to allow filing of statements of economic interest on Internet. Directs commission to allow public access to statements using Internet.

Modifies qualifications for members of Oregon Government Standards and Practices Commission. Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to activities regulated by the Oregon Government Standards and Practices Commission;  
3 creating new provisions; amending ORS 244.020, 244.060, 244.100 and 244.250; repealing ORS  
4 244.400; and declaring an emergency.

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

6 **SECTION 1.** ORS 244.060 is amended to read:

7 244.060. The statement of economic interest filed under ORS 244.050[,] shall be on a form pre-  
8 scribed by the Oregon Government Standards and Practices Commission, and the person filing the  
9 statement shall supply the information required by this section and ORS 244.090, as follows:

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

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

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

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

23 (5) **The names of the spouse and children or other dependents of the person and the**  
24 **names of clients of the spouse, children or other dependents of the person.**

25 (6) **The total amount of employment income of the person during the preceding calendar**  
26 **year, the total amount of investment income of the person during the preceding calendar**  
27 **year, the total value of all real property in which the person had any personal, beneficial**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 ownership interest during the preceding calendar year and the total amount of earnings the  
 2 person received from clients during the preceding calendar year. The amounts or values de-  
 3 scribed in this subsection shall be reported within the following ranges:

4 (a) Less than \$5,001.

5 (b) \$5,001 to \$25,000.

6 (c) \$25,001 to \$50,000.

7 (d) \$50,001 to \$100,000.

8 (e) \$100,001 to \$200,000.

9 (f) More than \$200,000.

10 [(5)(a)] (7)(a) The listing of all real property in which the public official or candidate therefor  
 11 or a member of the household of the public official or candidate has or has had any personal, ben-  
 12 efiticial ownership interest during the preceding calendar year, any options to purchase or sell real  
 13 property, including a land sales contract, and any other rights of any kind in real property located  
 14 within the geographic boundaries of the governmental agency of which the public official is or the  
 15 candidate if elected would be a member or over which the public official has or the candidate if  
 16 elected would have authority.

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

19 [(6)(a)] (8)(a) Notwithstanding ORS 244.020 [(8)(c)] (9)(c), if a public official has received food,  
 20 lodging and payment of travel expenses exceeding \$100 when participating in an event which bears  
 21 a relationship to the public official's office and when appearing in an official capacity, the name,  
 22 nature and business address of the organization paying the expenses and the date and amount of  
 23 that expenditure.

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

29 [(7)] (9) Any honoraria exceeding \$50 received during the preceding calendar year by the person  
 30 or a member of the household of the person, the payer of the honoraria and the date and time of the  
 31 event for which the honoraria was received.

32 **SECTION 2. Sections 3 and 4 of this 2003 Act are added to and made a part of ORS**  
 33 **chapter 244.**

34 **SECTION 3. (1) The Oregon Government Standards and Practices Commission shall adopt**  
 35 **a filing system under which statements of economic interest required under ORS 244.050 may**  
 36 **be filed with the commission in an electronic format using the Internet. The commission**  
 37 **may not charge a fee for filing a statement under this subsection.**

38 **(2) The commission shall provide training on procedures for filing statements under**  
 39 **subsection (1) of this section.**

40 **(3) The commission shall make statements of economic interest filed under ORS 244.050**  
 41 **available for review by the public using the Internet. The statements shall be made available**  
 42 **in a searchable format.**

43 **(4) As used in this section, "Internet" has the meaning given that term in ORS 167.117.**

44 **SECTION 4. (1) The Oregon Government Standards and Practices Commission shall es-**  
 45 **timate in advance the expenses that it will incur during the biennium in carrying out the**

1 provisions of ORS chapter 244.

2 (2) The commission shall charge each public body as defined in ORS 174.109, other than  
3 the legislative department as defined in ORS 174.114, for the public body's share of the ex-  
4 penses described in subsection (1) of this section for the biennium. The charges shall be in  
5 an amount not less than \$3 and not more than \$5 per public official serving the public body  
6 against which the fee is charged.

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

10 (4) All moneys received by the commission under this section shall be credited to the  
11 Oregon Government Standards and Practices Commission Account established under ORS  
12 244.345.

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

15 (6) Beginning on July 1, 2005, the commission shall adjust the dollar range specified in  
16 subsection (2) of this subsection annually based upon the change in the Portland-Salem,  
17 OR-WA, Consumer Price Index for All Urban Consumers for All Items as prepared by the  
18 Bureau of Labor Statistics of the United States Department of Labor or its successor during  
19 the preceding 12-month period. The commission shall round the amount determined under  
20 this paragraph to the nearest dollar.

21 **SECTION 5.** ORS 244.250 is amended to read:

22 244.250. (1) The Oregon Government Standards and Practices Commission is established, con-  
23 sisting of seven members appointed in the following manner to be confirmed by the Senate:

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

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

30 (2) [*No person who holds any public office listed in ORS 244.050 (1) except as a member of the*  
31 *commission shall be appointed to the commission.*] No more than four members [*shall*] **may** be mem-  
32 bers of the same political party.

33 (3) **The following persons may not be members of the commission:**

34 (a) **A person who holds any public office listed in ORS 255.050 (1) except as a member of**  
35 **the commission;**

36 (b) **A person who is a candidate for elective public office;**

37 (c) **A person who has held an elective public office in this state or been a candidate for**  
38 **elective public office in this state within two years of the person's appointment to the com-**  
39 **mission;**

40 (d) **A person who is a treasurer or director of a political committee as defined in ORS**  
41 **260.005;**

42 (e) **A person who is an officer or employee of a political party;**

43 (f) **A person who is a party to any contract with any public body as defined in ORS 174.109**  
44 **subject to the provisions of this chapter;**

45 (g) **A person who is a registered lobbyist under ORS 171.725 to 171.785; or**

1       **(h) A person who is an employee of, or a member of the board of directors of a person**  
 2       **required to file a statement under ORS 171.750.**

3       [(3)] **(4)** The term of office is four years. [No] A member [shall be] **is not** eligible to be appointed  
 4 to more than one full term but may serve out an unexpired term. However, those members first ap-  
 5 pointed to the commission serving less than a three-year term are eligible for a second appointment  
 6 for a full term. Vacancies shall be filled by the appointing authority for the unexpired term.

7       [(4)] **(5)** The commission shall elect a chairperson and vice chairperson for such terms and duties  
 8 as the commission may require.

9       [(5)] **(6)** A quorum consists of four members but no final decision may be made without an af-  
 10 firmative vote of the majority of the members appointed to the commission.

11       [(6)] **(7)** Members shall be entitled to compensation and expenses as provided in ORS 292.495.

12       [(7)] **(8)** The commission may retain or appoint qualified legal counsel who shall be a member  
 13 of the Oregon State Bar and who shall be responsible to the commission. The appointment of legal  
 14 counsel under this subsection shall be made only when the commission finds it is inappropriate and  
 15 contrary to the public interest for the office of the Attorney General to represent concurrently more  
 16 than one public official or agency in any matter before the commission because such representation  
 17 would create or tend to create a conflict of interest and is not subject to ORS 180.230 or 180.235.

18       [(8)] **(9)** The Attorney General shall not represent before the commission any state public official  
 19 who is the subject of any complaint or action of the commission at the commission's own instigation.

20       **SECTION 6.** ORS 244.020 is amended to read:

21       244.020. As used in this chapter, unless the context requires otherwise:

22       (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-  
 23 son acting in a capacity as a public official, the effect of which would be to the private pecuniary  
 24 benefit or detriment of the person or the person's relative or any business with which the person  
 25 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-  
 26 cumstances described in subsection [(7)] **(8)** of this section.

27       (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,  
 28 association, organization, self-employed individual and any other legal entity operated for economic  
 29 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section  
 30 501(c) of the Internal Revenue Code with which a public official is associated in a nonremunerative  
 31 capacity.

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

33       (a) Any private business or closely held corporation of which the person or the person's relative  
 34 is a director, officer, owner or employee, or agent or any private business or closely held corpo-  
 35 ration in which the person or the person's relative owns or has owned stock, another form of equity  
 36 interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding cal-  
 37 endar year;

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

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

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

1       **(4) “Client” means a person for whom a person agrees to provide personal services for**  
2 **money or any other consideration.**

3       [(4)] **(5) “Commission” means the Oregon Government Standards and Practices Commission.**

4       [(5)] **(6) “Development commission” means any entity which has the authority to purchase, de-**  
5 **velop, improve or lease land or the authority to operate or direct the use of land. This authority**  
6 **must be more than ministerial.**

7       [(6)] **(7) “Expenditure” has the meaning given that term in ORS 260.005.**

8       [(7)] **(8) “Potential conflict of interest” means any action or any decision or recommendation by**  
9 **a person acting in a capacity as a public official, the effect of which could be to the private**  
10 **pecuniary benefit or detriment of the person or the person’s relative, or a business with which the**  
11 **person or the person’s relative is associated, unless the pecuniary benefit or detriment arises out**  
12 **of the following:**

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

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

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

23       [(8)] **(9) “Gift” means something of economic value given to a public official or the public offi-**  
24 **cial’s relative without valuable consideration of equivalent value, including the full or partial**  
25 **forgiveness of indebtedness, which is not extended to others who are not public officials or the rel-**  
26 **atives of public officials on the same terms and conditions; and something of economic value given**  
27 **to a public official or the public official’s relative for valuable consideration less than that required**  
28 **from others who are not public officials. However, “gift” does not mean:**

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

30       (b) Gifts from family members.

31       (c) The giving or receiving of food, lodging and travel when participating in an event which  
32 bears a relationship to the public official’s office and when appearing in an official capacity, subject  
33 to the reporting requirement of ORS 244.060 [(6)] **(8).**

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

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

40       [(9)] **(10) “Honoraria” means a payment or something of economic value given to a public official**  
41 **in exchange for services upon which custom or propriety prevents the setting of a price. Services**  
42 **include, but are not limited to, speeches or other services rendered in connection with an event at**  
43 **which the public official appears in an official capacity.**

44       [(10)] **(11) “Income” means income of any nature derived from any source, including, but not**  
45 **limited to, any salary, wage, advance, payment, dividend, interest, rent, honoraria, return of capital,**

1 forgiveness of indebtedness, or anything of economic value.

2 [(11)] (12) "Legislative or administrative interest" means an economic interest, distinct from that  
3 of the general public, in one or more bills, resolutions, regulations, proposals or other matters sub-  
4 ject to the action or vote of a person acting in the capacity of a public official.

5 [(12)] (13) "Legislative official" means any member or member-elect of the Legislative Assembly,  
6 any member of an agency, board or committee that is part of the legislative branch and any staff  
7 person, assistant or employee thereof.

8 [(13)] (14) "Member of household" means any relative who resides with the public official.

9 [(14)] (15) "Planning commission" means a county planning commission created under ORS  
10 chapter 215 or a city planning commission created under ORS chapter 227.

11 [(15)] (16) "Public official" means any person who, when an alleged violation of this chapter  
12 occurs, is serving the State of Oregon or any of its political subdivisions or any other public body  
13 of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is  
14 compensated for such services.

15 [(16)] (17) "Relative" means the spouse of the public official, any children of the public official  
16 or of the public official's spouse, and brothers, sisters or parents of the public official or of the  
17 public official's spouse.

18 [(17)] (18) "Statewide official" means the Secretary of State or Secretary of State-elect, State  
19 Treasurer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of  
20 Public Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau  
21 of Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

22 [(18)] (19) "Zoning commission" means an entity to which is delegated at least some of the dis-  
23 cretionary authority of a planning commission or governing body relating to zoning and land use  
24 matters.

25 **SECTION 7.** ORS 244.100 is amended to read:

26 244.100. (1) The Oregon Government Standards and Practices Commission by rule may require  
27 the disclosure and reporting of gifts or other compensation made to or received by a public official  
28 or candidate for elective office.

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

33 (3) In addition to any disclosures or reports required under subsections (1) and (2) of this sec-  
34 tion, any person or organization that provides a public official with food, lodging or travel expenses  
35 exceeding \$50, as described in ORS 244.060 [(6)] (8), shall notify the public official in writing of the  
36 amount of the expense. The notice shall be sent to the public official within 10 days from the date  
37 such expenses are incurred.

38 **SECTION 8. ORS 244.400 is repealed.**

39 **SECTION 9. (1) The amendments to ORS 244.020 and 244.060 by sections 1 and 6 of this**  
40 **2003 Act apply to statements of economic interest filed on or after the operative date of the**  
41 **amendments to ORS 244.020 and 244.060 by sections 1 and 6 of this 2003 Act.**

42 **(2) The amendments to ORS 244.250 by section 5 of this 2003 Act apply to appointments**  
43 **made on or after the operative date of the amendments to ORS 244.250 by section 5 of this**  
44 **2003 Act.**

45 **(3) The repeal of ORS 244.400 by section 8 of this 2003 Act applies to attorney fees for**

1 actions first undertaken by the Oregon Government Standards and Practices Commission  
2 under ORS 244.260 on or after the operative date of the repeal of ORS 244.400 by section 8  
3 of this 2003 Act.

4 (4) The Oregon Government Standards and Practices Commission shall first impose  
5 charges under section 4 of this 2003 Act for the biennium beginning July 1, 2003.

6 **SECTION 10.** Sections 3 and 4 of this 2003 Act, the amendments to statutes by sections  
7 1 and 5 to 7 of this 2003 Act and the repeal of ORS 244.400 by section 8 of this 2003 Act do  
8 not:

9 (1) Affect any action, proceeding or prosecution begun before and pending on the opera-  
10 tive date of section 3 of this 2003 Act, the amendments to statutes by sections 1 and 5 to 7  
11 of this 2003 Act and the repeal of ORS 244.400 by section 8 of this 2003 Act; or

12 (2) Relieve a person of a liability, fee, fine, penalty, duty or obligation accruing prior to  
13 the operative date of section 3 of this 2003 Act, the amendments to statutes by sections 1  
14 and 5 to 7 of this 2003 Act and the repeal of ORS 244.400 by section 8 of this 2003 Act. The  
15 Oregon Government Standards and Practices Commission may undertake the collection or  
16 enforcement of any such liability, fee, fine, penalty, duty or obligation.

17 **SECTION 11.** (1) Section 3 of this 2003 Act and the amendments to ORS 244.020, 244.060,  
18 244.100 and 244.250 by sections 1 and 5 to 7 of this 2003 Act and the repeal of ORS 244.400 by  
19 section 8 of this 2003 Act become operative January 1, 2004.

20 (2) The Oregon Government Standards and Practices Commission may adopt rules or  
21 take any other action before the operative date specified in subsection (1) of this section that  
22 is necessary to enable the commission to exercise, on and after the operative date specified  
23 in subsection (1) of this section, all the duties, functions and powers conferred on the com-  
24 mission by this 2003 Act.

25 **SECTION 12.** This 2003 Act being necessary for the immediate preservation of the public  
26 peace, health and safety, an emergency is declared to exist, and this 2003 Act takes effect  
27 on its passage.

28