

B-Engrossed
House Bill 3230

Ordered by the House June 20
Including House Amendments dated May 18 and June 20

Sponsored by Representatives LIM, MARCH; Representatives ANDERSON, BOONE, BUTLER, ESQUIVEL, GARRARD, GILMAN, GREENLICK, HANSEN, JENSON, P SMITH, TOMEI, Senators GORDLY, MONNES ANDERSON, MORRISETTE, B STARR

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.

Transfers duties, functions and powers of Oregon Disabilities Commission [*relating to services for deaf or hard-of-hearing individuals*] to Department of Human Services. Creates Oregon Deaf and Hard-of-Hearing Services program in department to be administered by Director of Human Services. Requires director to appoint advisory committee. **Specifies services that may be provided.**

Directs State Board of Education to adopt by rule standards for sign language interpreters in public schools. Provides that any public agency may contract with Department of Human Services for coordination and provision of sign language interpreter services.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Oregon Disabilities Commission; creating new provisions; amending ORS 185.110,
3 185.130, 185.150 and 192.630; repealing ORS 185.120, 185.160, 185.180, 185.220, 185.225 and
4 185.230; appropriating money; and declaring an emergency.

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

6 **SECTION 1. (1) The duties, functions and powers of the Oregon Disabilities Commission**
7 **are imposed upon, transferred to and vested in the Department of Human Services.**

8 **(2) On the operative date of this section, the tenure of office of the executive director**
9 **of the Oregon Disabilities Commission ceases.**

10 **SECTION 2. (1) The executive director of the Oregon Disabilities Commission shall:**

11 **(a) Deliver to the Director of Human Services all records and property within the juris-**
12 **isdiction of the executive director that relate to the duties, functions and powers transferred**
13 **by section 1 of this 2005 Act; and**

14 **(b) Transfer to the Department of Human Services those employees engaged primarily**
15 **in the exercise of the duties, functions and powers transferred by section 1 of this 2005 Act.**

16 **(2) The Director of Human Services shall take possession of the records and property,**
17 **and shall take charge of the employees and employ them in the exercise of the duties, func-**
18 **tions and powers transferred by section 1 of this 2005 Act, without reduction of compensation**
19 **but subject to change or termination of employment or compensation as provided by law.**

20 **(3) The Governor shall resolve any dispute between the Oregon Disabilities Commission**
21 **and the Department of Human Services relating to transfers of records, property and em-**
22 **ployees under this section, and the Governor's decision is final.**

23 **SECTION 3. (1) The unexpended balances of amounts authorized to be expended by the**

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 Oregon Disabilities Commission for the biennium beginning July 1, 2005, from revenues ded-
2 icated, continuously appropriated, appropriated or otherwise made available for the purpose
3 of administering and enforcing the duties, functions and powers transferred by section 1 of
4 this 2005 Act are appropriated and transferred to and are available for expenditure by the
5 Department of Human Services for the biennium beginning July 1, 2005, for the purpose of
6 administering and enforcing the duties, functions and powers transferred by section 1 of this
7 2005 Act.

8 (2) The expenditure classifications, if any, established by Acts authorizing or limiting
9 expenditures by the Oregon Disabilities Commission remain applicable to expenditures by the
10 Department of Human Services under this section.

11 **SECTION 4.** The transfer of duties, functions and powers to the Department of Human
12 Services by section 1 of this 2005 Act does not affect any action, proceeding or prosecution
13 involving or with respect to such duties, functions and powers begun before and pending at
14 the time of the transfer, except that the Department of Human Services is substituted for
15 the Oregon Disabilities Commission in the action, proceeding or prosecution.

16 **SECTION 5.** (1) Nothing in sections 1 to 7 of this 2005 Act relieves a person of a liability,
17 duty or obligation accruing under or with respect to the duties, functions and powers
18 transferred by section 1 of this 2005 Act. The Department of Human Services may undertake
19 the collection or enforcement of any such liability, duty or obligation.

20 (2) The rights and obligations of the Oregon Disabilities Commission legally incurred
21 under contracts, leases and business transactions executed, entered into or begun before the
22 operative date of section 1 of this 2005 Act accruing under or with respect to the duties,
23 functions and powers transferred by section 1 of this 2005 Act are transferred to the De-
24 partment of Human Services. For the purpose of succession to these rights and obligations,
25 the Department of Human Services is a continuation of the Oregon Disabilities Commission
26 and not a new authority.

27 **SECTION 6.** Notwithstanding the transfer of duties, functions and powers by section 1
28 of this 2005 Act, the rules of the Oregon Disabilities Commission with respect to such duties,
29 functions or powers that are in effect on the operative date of section 1 of this 2005 Act
30 continue in effect until superseded or repealed by rules of the Department of Human Ser-
31 vices. References in the rules of the Oregon Disabilities Commission to the Oregon Disabili-
32 ties Commission or an officer or employee of the Oregon Disabilities Commission are
33 considered to be references to the Department of Human Services or an officer or employee
34 of the Department of Human Services.

35 **SECTION 7.** Whenever, in any uncodified law or resolution of the Legislative Assembly
36 or in any rule, document, record or proceeding authorized by the Legislative Assembly, in
37 the context of the duties, functions and powers transferred by section 1 of this 2005 Act,
38 reference is made to the Oregon Disabilities Commission, or an officer or employee of the
39 Oregon Disabilities Commission, whose duties, functions or powers are transferred by section
40 1 of this 2005 Act, the reference is considered to be a reference to the Department of Human
41 Services or an officer or employee of the Department of Human Services who by this 2005
42 Act is charged with carrying out such duties, functions and powers.

43 **SECTION 8.** (1) The Oregon Deaf and Hard-of-Hearing Services program is created in the
44 Department of Human Services, to be administered by the Director of Human Services.

45 (2) The director shall appoint an advisory committee to act in an advisory capacity to the

1 director. The director shall consult with the advisory committee on all matters relating to
2 the services described in section 9 of this 2005 Act.

3 (3) The director shall appoint to the advisory committee 12 individuals who have experi-
4 ence in issues that affect deaf or hard-of-hearing individuals.

5 **SECTION 9.** The Oregon Deaf and Hard-of-Hearing Services program may provide the
6 following services in addition to the duties, functions and powers transferred by section 1
7 of this 2005 Act and the duties imposed under sections 11 and 12 of this 2005 Act:

8 (1) Assistance to members of the public and state agencies in making agency programs
9 available and accessible to deaf or hard-of-hearing individuals.

10 (2) Identification and publicity of the needs and concerns of deaf or hard-of-hearing in-
11 dividuals as their needs and concerns relate to the full achievement of economic, social, legal
12 and political equity.

13 (3) Advice to the Department of Human Services, the Governor, the Legislative Assembly
14 and appropriate state agency administrators on how state services for deaf or hard-of-
15 hearing individuals might be improved or better coordinated to meet the needs of these in-
16 dividuals.

17 (4) Provision of information to deaf or hard-of-hearing individuals about where they may
18 obtain assistance in rehabilitation and employment and about laws prohibiting discrimination
19 in employment as a result of disability.

20 (5) Cooperation with and assistance to interest groups in rehabilitation and employment
21 of deaf or hard-of-hearing individuals and encouragement of public and private employers to
22 undertake affirmative action to ensure equitable employment of deaf or hard-of-hearing in-
23 dividuals.

24 (6) Promotion of a continuous program of information and education to employers and
25 the general public to increase awareness of and sensitivity to the needs of deaf or hard-of-
26 hearing individuals for equitable education and training that will ensure for these individuals
27 their full vocational potential.

28 (7) Promotion of a continuous information program for placement of deaf or hard-of-
29 hearing individuals in suitable employment.

30 **SECTION 10.** As used in sections 11 and 12 of this 2005 Act, "sign language interpreter"
31 means a person who is readily able to communicate with a deaf or hard-of-hearing individual,
32 translate proceedings or conversations and accurately repeat and translate the statements
33 of a deaf or hard-of-hearing individual.

34 **SECTION 11.** The State Board of Education shall adopt by rule standards for sign lan-
35 guage interpreters for deaf and hard-of-hearing individuals in public schools. In developing
36 the standards, the board shall consult with the advisory committee created under section 8
37 of this 2005 Act and the Director of Human Services.

38 **SECTION 12.** (1) Any public agency may contract with the Department of Human Ser-
39 vices for the coordination and provision of sign language interpreter services.

40 (2) From funds available under subsection (1) of this section, the department shall con-
41 tract with certified sign language interpreters to provide, for a fee established by rule of the
42 department, sign language interpretation services to public agencies with whom the depart-
43 ment has a contract for the services.

44 **SECTION 13.** ORS 185.110 is amended to read:

45 185.110. As used in ORS 185.110 to 185.230, unless the context requires otherwise:

1 (1) "Advocate self-help group" means any organized group of individuals with disabilities who
2 have joined together for purposes of informing the public of their needs and obtaining resources,
3 services and benefits for their membership.

4 (2) "Consumer" means an individual with a disability, or a parent or legal guardian, other than
5 the State of Oregon, of an individual with a disability, who utilizes the services made available by
6 public and private organizations which serve individuals with disabilities.

7 (3) "Disabled individual" means anyone who:

8 (a) Has a physical or mental impairment which substantially limits one or more of the individ-
9 ual's major life activities;

10 (b) Has a record of such impairment; or

11 (c) Is regarded as having such an impairment.

12 [(4) "Sign language interpreter" means a person who is readily able to communicate with a hearing
13 impaired person, translate proceedings or conversations and accurately repeat and translate the state-
14 ments of a hearing impaired person.]

15 **SECTION 14.** ORS 185.130 is amended to read:

16 185.130. (1) The Oregon Disabilities Commission is created consisting of 15 members appointed
17 by the Governor for not more than two consecutive three-year terms.

18 (2) Prior to making appointments, the Governor shall request and consider recommendations
19 from advocate self-help groups and other interested public and private agencies.

20 (3) The membership of the commission shall be composed of members broadly representative of
21 major public and private agencies who are experienced in or have demonstrated particular interest
22 in the special needs of individuals with disabilities and consumers. Appointments shall be made with
23 considerations given to geographic representation and a majority shall be individuals with disabili-
24 ties as defined in ORS 185.110 (3). [*Appointments to the commission shall be subject to Senate confir-
25 mation as provided in ORS 171.562 and 171.565.*]

26 **SECTION 15.** ORS 185.150 is amended to read:

27 185.150. The duties of the Oregon Disabilities Commission [*shall combine the functions of the
28 Governor's Steering Committee on the Handicapped and the Governor's Committee on Employment of
29 the Handicapped, and shall*] **may** include:

30 (1) Identifying and hearing the concerns of individuals with disabilities;

31 (2) Publicizing the needs and concerns of individuals with disabilities as they relate to the full
32 achievement of economic, social, legal and political equity;

33 (3) Advising the Department of Human Services, the Governor, the Legislative Assembly and
34 appropriate state agency administrators on how state services for individuals with disabilities might
35 be improved or better coordinated to meet the needs of the individuals with disabilities;

36 (4) Advising local government agencies on matters which affect individuals with disabilities;

37 (5) Submitting a report of commission activities and recommendations to the Governor at least
38 annually, and to the Legislative Assembly at least biennially and nominating qualified individuals
39 with disabilities for appointment to boards, commissions and policy level management and profes-
40 sional positions;

41 (6) Studying and reporting on state agency programs and budgets that affect individuals with
42 disabilities;

43 (7) Informing individuals with disabilities where they may obtain assistance in rehabilitation and
44 employment and about laws prohibiting discrimination in employment as a result of disability;

45 (8) Cooperating with and assisting other interest groups in rehabilitation and employment of

1 individuals with disabilities and encouraging public and private employers to undertake affirmative
2 action to assure equitable employment of individuals with disabilities;

3 (9) Giving impetus and assistance to local community committees and fostering a more equitable
4 climate for rehabilitation and equitable employment of individuals with disabilities;

5 (10) Promoting a continuous program of information and education to employers and the general
6 public so they are aware of and sensitive to the needs and desires of individuals with disabilities for
7 equitable education and training that will assure individuals with disabilities of their full vocational
8 potentials;

9 (11) Promoting a continuous information program for placement of individuals with disabilities
10 in suitable employment; **and**

11 (12) Coordinating and executing programs of the President's Committee on Employment of the
12 Handicapped, if any, and participating with other groups in sponsoring suitable public recognition
13 programs for individuals with disabilities.]; *and*]

14 *[(13) Assisting members of the public and state agencies in making agency programs available and*
15 *accessible to individuals who are deaf and hearing impaired. The Deaf and Hearing Impaired Access*
16 *Program shall perform the activities of this effort.]*

17 **SECTION 16.** ORS 192.630 is amended to read:

18 192.630. (1) All meetings of the governing body of a public body shall be open to the public and
19 all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610
20 to 192.690.

21 (2) *[No]* A quorum of a governing body *[shall]* **may not** meet in private for the purpose of de-
22 ciding on or deliberating toward a decision on any matter except as otherwise provided by ORS
23 192.610 to 192.690.

24 (3) A governing body *[shall]* **may** not hold a meeting at any place where discrimination on the
25 basis of race, creed, color, sex, age, national origin or disability is practiced. However, the fact that
26 organizations with restricted membership hold meetings at the place *[shall]* **does** not restrict its use
27 by a public body if use of the place by a restricted membership organization is not the primary
28 purpose of the place or its predominate use.

29 (4) Meetings of the governing body of a public body shall be held within the geographic bound-
30 aries over which the public body has jurisdiction, or at the administrative headquarters of the public
31 body or at the other nearest practical location. Training sessions may be held outside the jurisdic-
32 tion *[so]* **as** long as no deliberations toward a decision are involved. A joint meeting of two or more
33 governing bodies or of one or more governing bodies and the elected officials of one or more feder-
34 ally recognized Oregon Indian tribes shall be held within the geographic boundaries over which one
35 of the participating public bodies or one of the Oregon Indian tribes has jurisdiction or at the
36 nearest practical location. Meetings may be held in locations other than those described in this
37 subsection in the event of an actual emergency necessitating immediate action.

38 (5)(a) It *[shall be considered]* **is** discrimination on the basis of disability for a governing body of
39 a public body to meet in a place inaccessible to the disabled, or, upon request of a *[hearing*
40 *impaired]* **deaf or hard-of-hearing** person, to fail to make a good faith effort to have an interpreter
41 for *[hearing impaired]* **deaf or hard-of-hearing** persons provided at a regularly scheduled meeting.
42 The sole remedy for discrimination on the basis of disability shall be as provided in ORS 192.680.

43 (b) The person requesting the interpreter shall give the governing body at least 48 hours' notice
44 of the request for an interpreter, shall provide the name of the requester, sign language preference
45 and any other relevant information the governing body may request.

1 (c) If a meeting is held upon less than 48 hours' notice, reasonable effort shall be made to have
2 an interpreter present, but the requirement for an interpreter does not apply to emergency meetings.

3 (d) If certification of interpreters occurs under state or federal law, the [*Oregon Disabilities*
4 *Commission*] **Department of Human Services** or other state or local agency shall try to refer only
5 certified interpreters to governing bodies for purposes of this subsection.

6 (e) As used in this subsection, "good faith effort" includes, but is not limited to, contacting the
7 [*Oregon Disabilities Commission*] **department** or other state or local agency that maintains a list
8 of qualified interpreters and arranging for the referral of one or more such persons to provide in-
9 terpreter services.

10 **SECTION 17. Sections 1 to 7 and 9 to 12 of this 2005 Act, the amendments to ORS 185.110,**
11 **185.130, 185.150 and 192.630 by sections 13 to 16 of this 2005 Act and the repeal of ORS 185.120,**
12 **185.160, 185.180, 185.220, 185.225 and 185.230 by section 18 of this 2005 Act become operative**
13 **on January 1, 2006.**

14 **SECTION 18. ORS 185.120, 185.160, 185.180, 185.220, 185.225 and 185.230 are repealed.**

15 **SECTION 19. This 2005 Act being necessary for the immediate preservation of the public**
16 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
17 **on its passage.**

18