

C-Engrossed
House Bill 3230

Ordered by the Senate July 7
Including House Amendments dated May 18 and June 20 and Senate
Amendments dated July 7

Sponsored by Representatives LIM, MARCH; Representatives ANDERSON, BOONE, BUTLER, ESQUIVEL,
GARRARD, GILMAN, GREENLICK, HANSEN, JENSON, P SMITH, TOMEI, Senators GORDLY, MONNES
ANDERSON, MORRISSETTE, 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 [*to*] **into** 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*] **July 1, 2005.**

A BILL FOR AN ACT

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

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

6 **SECTION 1. The Oregon Disabilities Commission is transferred into the Department of**
7 **Human Services.**

8 **SECTION 1a. The duties, functions and powers of the Oregon Disabilities Commission**
9 **relating to the program that assists members of the public and state agencies in making**
10 **agency programs available and accessible to individuals who are deaf or hard-of-hearing are**
11 **imposed upon, transferred to and vested in the Department of Human Services.**

12 **SECTION 2. (1) The Oregon Disabilities Commission shall:**

13 (a) **Deliver to the Department of Human Services all records and property within the**
14 **jurisdiction of the commission; and**

15 (b) **Transfer to the department those employees engaged primarily in the exercise of the**
16 **duties, functions and powers of the commission or the program transferred under sections**
17 **1 and 1a of this 2005 Act.**

18 (2) **On the effective date of this 2005 Act, the tenure of the executive director of the**
19 **Oregon Disabilities Commission ceases.**

20 (3) **The department shall take possession of the records and property, and shall take**
21 **charge of the employees and employ them in the exercise of the duties, functions and powers**
22 **of the commission and the program transferred under sections 1 and 1a of this 2005 Act,**
23 **without reduction of compensation but subject to change or termination of employment or**

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 compensation as provided by law.

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

5 **SECTION 3.** (1) The unexpended balances of amounts authorized to be expended by the
6 Oregon Disabilities Commission for the biennium beginning July 1, 2005, from revenues ded-
7 icated, continuously appropriated, appropriated or otherwise made available for the purpose
8 of administering and enforcing the duties, functions and powers of the commission and the
9 program transferred by sections 1 and 1a of this 2005 Act are transferred to and are available
10 for expenditure by the Department of Human Services for the biennium beginning July 1,
11 2005, for the purpose of administering and enforcing the duties, functions and powers of the
12 commission and the program transferred by sections 1 and 1a of this 2005 Act.

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

16 **SECTION 4.** The transfer of the Oregon Disabilities Commission into the Department of
17 Human Services by section 1 of this 2005 Act and the transfer of the duties, functions and
18 powers of the Oregon Disabilities Commission relating to the program that assists members
19 of the public and state agencies in making agency programs available and accessible to indi-
20 viduals who are deaf or hard-of-hearing does not affect any action, proceeding or prosecution
21 involving or with respect to such duties, functions and powers begun before and pending at
22 the time of the transfer, except that the Department of Human Services may be substituted
23 for the Oregon Disabilities Commission in the action, proceeding or prosecution.

24 **SECTION 5.** (1) Nothing in sections 1 to 6 of this 2005 Act relieves a person of a liability,
25 duty or obligation accruing under or with respect to the duties, functions and powers
26 transferred by section 1 or 1a of this 2005 Act. The Department of Human Services may
27 undertake the collection or enforcement of any such liability, duty or obligation.

28 (2) The rights and obligations of the Oregon Disabilities Commission legally incurred
29 under contracts, leases and business transactions executed, entered into or begun before the
30 effective date of this 2005 Act accruing under or with respect to the duties, functions and
31 powers of the commission transferred by section 1 or 1a of this 2005 Act are transferred to
32 the Department of Human Services. For the purpose of succession to these rights and obli-
33 gations, the Department of Human Services is a continuation of the Oregon Disabilities
34 Commission and not a new authority.

35 **SECTION 6.** Notwithstanding the transfer of the duties, functions and powers of the
36 Oregon Disabilities Commission relating to the program that assists members of the public
37 and state agencies in making agency programs available and accessible to individuals who
38 are deaf or hard-of-hearing to the Department of Human Services by section 1a of this 2005
39 Act, the rules of the Oregon Disabilities Commission with respect to the duties, functions
40 or powers of the commission relating to the program that are in effect on the effective date
41 of this 2005 Act continue in effect until superseded or repealed by rules of the Department
42 of Human Services. References in the rules of the Oregon Disabilities Commission to the
43 Oregon Disabilities Commission or an officer or employee of the Oregon Disabilities Com-
44 mission are considered to be references to the Department of Human Services or an officer
45 or employee of the Department of Human Services.

1 **SECTION 7.** ORS 185.130 is amended to read:

2 185.130. (1) The Oregon Disabilities Commission is created **within the Department of Human**
3 **Services.** [*consisting of*] **The commission consists of** 15 members appointed by the Governor for
4 not more than two consecutive three-year terms.

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

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

13 **SECTION 8.** ORS 185.150 is amended to read:

14 185.150. The duties of the Oregon Disabilities Commission [*shall combine the functions of the*
15 *Governor's Steering Committee on the Handicapped and the Governor's Committee on Employment of*
16 *the Handicapped, and shall*] **may** include:

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

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

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

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

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

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

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

32 (8) Cooperating with and assisting other interest groups in rehabilitation and employment of
33 individuals with disabilities and encouraging public and private employers to undertake affirmative
34 action to assure equitable employment of individuals with disabilities;

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

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

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

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

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

4 **SECTION 9.** ORS 185.225 is amended to read:

5 185.225. The State Board of Education shall adopt by rule standards for sign language inter-
6 preters for the deaf and [*hearing impaired*] **hard-of-hearing** in the public schools. In developing the
7 standards, the state board shall consult with the [*Oregon Disabilities Commission*] **advisory com-**
8 **mittee created under section 11 of this 2005 Act and the Director of Human Services.**

9 **SECTION 10.** ORS 185.230 is amended to read:

10 185.230. (1) Any public agency may contract with the [*Oregon Disabilities Commission*] **Depart-**
11 **ment of Human Services** for the coordination and provision of sign language interpreter services.

12 (2) From funds available under subsection (1) of this section, the [*commission*] **department** shall
13 contract with certified sign language interpreters to provide, for a fee established by rule of the
14 [*commission*] **department**, sign language interpretation services to public agencies with whom the
15 [*commission*] **department** has a contract for such services.

16 **SECTION 11.** (1) **The Oregon Deaf and Hard-of-Hearing Services Program is created in**
17 **the Department of Human Services. The purpose of the program is to assist members of the**
18 **public and state agencies in making agency programs available and accessible to individuals**
19 **who are deaf or hard-of-hearing.**

20 (2) **The program may also provide the following:**

21 (a) **Identification and publicity of the needs and concerns of deaf or hard-of-hearing in-**
22 **dividuals as their needs and concerns relate to the full achievement of economic, social, legal**
23 **and political equity.**

24 (b) **Advice to the Department of Human Services, the Governor, the Legislative Assembly**
25 **and appropriate state agency administrators on how state services for deaf or hard-of-**
26 **hearing individuals might be improved or better coordinated to meet the needs of these in-**
27 **dividuals.**

28 (c) **Provision of information to deaf or hard-of-hearing individuals about where they may**
29 **obtain assistance in rehabilitation and employment and about laws prohibiting discrimination**
30 **in employment as a result of disability.**

31 (d) **Cooperation with and assistance to interest groups in rehabilitation and employment**
32 **of deaf or hard-of-hearing individuals and encouragement of public and private employers to**
33 **undertake affirmative action to ensure equitable employment of deaf or hard-of-hearing in-**
34 **dividuals.**

35 (e) **Promotion of a continuous program of information and education to employers and**
36 **the general public to increase awareness of and sensitivity to the needs of deaf or hard-of-**
37 **hearing individuals for equitable education and training that will ensure for these individuals**
38 **their full vocational potential.**

39 (f) **Promotion of a continuous information program for placement of deaf or hard-of-**
40 **hearing individuals in suitable employment.**

41 (3)(a) **The Director of Human Services shall appoint an advisory committee to advise the**
42 **director regarding the program. The director shall consult with the advisory committee re-**
43 **garding the services described in this section.**

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

1 **SECTION 12.** ORS 192.630 is amended to read:

2 192.630. (1) All meetings of the governing body of a public body shall be open to the public and
3 all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610
4 to 192.690.

5 (2) [No] A quorum of a governing body [shall] **may not** meet in private for the purpose of de-
6 ciding on or deliberating toward a decision on any matter except as otherwise provided by ORS
7 192.610 to 192.690.

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

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

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

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

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

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

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

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

40 185.110. As used in ORS 185.110 to 185.230, unless the context requires otherwise:

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

44 (2) "Consumer" means an individual with a disability, or a parent or legal guardian, other than
45 the State of Oregon, of an individual with a disability, who utilizes the services made available by

1 public and private organizations which serve individuals with disabilities.

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

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

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

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

7 (4) "Sign language interpreter" means a person who is readily able to communicate with a
8 [*hearing impaired*] **hard-of-hearing** person, translate proceedings or conversations and accurately
9 repeat and translate the statements of a [*hearing impaired*] **hard-of-hearing** person.

10 **SECTION 14. ORS 185.120, 185.160, 185.180 and 185.220 are repealed.**

11 **SECTION 15. This 2005 Act being necessary for the immediate preservation of the public
12 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
13 on July 1, 2005.**

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