

**Enrolled**  
**House Bill 3230**

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

CHAPTER .....

AN ACT

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

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

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

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

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

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

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

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

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

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

**SECTION 3.** (1) The unexpended balances of amounts authorized to be expended by the Oregon Disabilities Commission for the biennium beginning July 1, 2005, from revenues dedicated, continuously appropriated, appropriated or otherwise made available for the purpose of administering and enforcing the duties, functions and powers of the commission and the program transferred by sections 1 and 1a of this 2005 Act are transferred to and are available

for expenditure by the Department of Human Services for the biennium beginning July 1, 2005, for the purpose of administering and enforcing the duties, functions and powers of the commission and the program transferred by sections 1 and 1a of this 2005 Act.

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

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

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

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

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

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

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

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

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

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

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

- (1) Identifying and hearing the concerns of individuals with disabilities;
- (2) Publicizing the needs and concerns of individuals with disabilities as they relate to the full achievement of economic, social, legal and political equity;
- (3) Advising the Department of Human Services, the Governor, the Legislative Assembly and appropriate state agency administrators on how state services for individuals with disabilities might be improved or better coordinated to meet the needs of the individuals with disabilities;
- (4) Advising local government agencies on matters which affect individuals with disabilities;
- (5) Submitting a report of commission activities and recommendations to the Governor at least annually, and to the Legislative Assembly at least biennially and nominating qualified individuals with disabilities for appointment to boards, commissions and policy level management and professional positions;
- (6) Studying and reporting on state agency programs and budgets that affect individuals with disabilities;
- (7) Informing individuals with disabilities where they may obtain assistance in rehabilitation and employment and about laws prohibiting discrimination in employment as a result of disability;
- (8) Cooperating with and assisting other interest groups in rehabilitation and employment of individuals with disabilities and encouraging public and private employers to undertake affirmative action to assure equitable employment of individuals with disabilities;
- (9) Giving impetus and assistance to local community committees and fostering a more equitable climate for rehabilitation and equitable employment of individuals with disabilities;
- (10) Promoting a continuous program of information and education to employers and the general public so they are aware of and sensitive to the needs and desires of individuals with disabilities for equitable education and training that will assure individuals with disabilities of their full vocational potentials;
- (11) Promoting a continuous information program for placement of individuals with disabilities in suitable employment; **and**
- (12) Coordinating and executing programs of the President's Committee on Employment of the Handicapped, if any, and participating with other groups in sponsoring suitable public recognition programs for individuals with disabilities.]; *and*]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) "Disabled individual" means anyone who:

(a) Has a physical or mental impairment which substantially limits one or more of the individual's major life activities;

(b) Has a record of such impairment; or

(c) Is regarded as having such an impairment.

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

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

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

Passed by House June 23, 2005

Received by Governor:

Repassed by House July 15, 2005

.....M.,....., 2005

Approved:

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Chief Clerk of House

.....M.,....., 2005

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Speaker of House

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Governor

Passed by Senate July 12, 2005

Filed in Office of Secretary of State:

.....M.,....., 2005

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President of Senate

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Secretary of State