Chapter 180

1977 REPLACEMENT PART

Attorney General and Department of Justice

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ATTORNEY GENERAL

180.010 Office of Attorney General. There is established the office of Attorney General of the State of Oregon.

180.020 Election; term of office. The Attorney General shall be elected by the qualified electors of this state at the regular general election in the same manner as other state officers are elected. The term of the Attorney General shall commence on the first Monday in January of the year succeeding his election. He shall hold his office for the term of four years, and until his successor is elected and qualified.

180.030 Filing certificate of election and oath. Before entering upon the duties of his office the Attorney General shall qualify by filing with the Secretary of State his certificate of election or of his appointment, with his oath of office indorsed thereon.

180.040 Governor to fill vacancy by appointment; term of appointee. At any time when a vacancy may by any cause occur in the office of Attorney General, the Governor shall appoint a suitable person to be Attorney General, who shall hold his office until the next general election, when his successor shall be elected for a full term and shall qualify as prescribed in ORS 180.030.

180.050 Location of office. The Attorney General shall keep and attend his office at the capital of the state. The state shall provide and furnish the office.

180.060 Powers and duties of Attorney General. (1) The Attorney General shall:

(a) Appear for the state in the trial of all civil and criminal causes in the Supreme Court or the Court of Appeals in which the state may be directly or indirectly interested.

(b) Appear for the state, when required by the Governor or the legislature, in any court or tribunal in any cause in which the state is a party or in which the state is directly interested.

(c) Appear, commence, prosecute or defend for the state all causes or proceedings in the Supreme Court or the Court of Appeals in which the state is a party or interested.

(d) Appear, commence, prosecute or defend any action, suit, matter, cause or proceeding in any court when requested by any state officer, board or commission when, in his discretion, the same may be necessary or advisable to protect the interests of the state.

(2) The Attorney General shall give his opinion in writing, when requested, upon any question of law in which the State of Oregon or any public subdivision thereof may have an interest, submitted to him by the Governor, any officer, department, agency, board or commission of the state or any member of the legislature.

(3) The Attorney General shall not render opinions or give legal advice to others than such state officers listed in subsection (2) of this section.

(4) The Attorney General shall consult with, advise and direct the district attorneys in all criminal causes and matters relating to state affairs in their respective counties. He may require their aid and assistance in all matters pertaining to his duties in their respective counties and may, in any case brought to the Supreme Court or the Court of Appeals from their respective counties, demand and receive assistance of the district attorney from whose county such case or matter is brought.

(5) The Attorney General shall, when requested, perform all legal services for the state or any department or officer of the state.

(6) The Attorney General shall have all the power and authority usually appertaining to such office and shall perform the duties otherwise required of him by law.

(7) The Attorney General shall assign to each agency, department, board or commission an assistant who shall be its counsel responsible for insuring the performance of the legal services requested by such agency, department, board or commission. The counsel shall be a person trained in the law concerning such agency, department, board or commission and shall be approved by the chief administrator thereof, provided, however, such approval shall not be unreasonably withheld. Such approval may be withdrawn at any time by the chief administrator and thereupon the Attorney General shall assign replacement counsel to the agency, department, board or commission.

(8) The Attorney General shall not appear on behalf of any officer, department, agency, board or commission without its consent in any action, suit, matter, cause or proceeding in any court or before any other federal or state regulatory body.

(9) The responsibility of establishing policies for each agency, department, board or commission shall rest upon the chief administrator thereof.

[Amended by 1971 c.418 §1]

180.070 Power of Attorney General to conduct investigations and prosecutions; duties of district attorneys unaffected. (1) The Attorney General may, when directed to do so by the Governor, take full charge of any investigation or prosecution of violation of law in which the circuit court has jurisdiction.

(2) When acting under this section, the Attorney General shall have all the powers of a district attorney, including the power to issue or cause to be issued subpenas or other process. The Attorney General may, when he considers the public interest requires, with or without the concurrence of the district attorney, direct the county grand jury to convene for the investigation and consideration of such matters of a criminal nature as he desires to submit to it. He may take full charge of the presentation of such matters to the grand jury, issue subpenas, prepare indictments, and do all other things incident thereto to the same extent as the district attorney may do.

(3) All costs, fees and other expense shall be paid by the county in which the investigation takes place, to the same extent as if conducted by the district attorney of that county.

(4) The power conferred by this section, ORS 180.060, 180.220 or 180.240 does not deprive the district attorneys of any of their authority, or relieve them from any of their duties to prosecute criminal violations of law and advise the officers of the counties composing their districts.

180.080 Attorney General to manage criminal proceedings in court or before grand jury at request of Governor. When directed by the Governor, the Attorney General shall attend in person, or by one of his assistants, any term of any court, or appear before the grand jury in any county, for the purpose of managing and conducting in such court, or before such jury, the criminal action or proceeding specified in the requirement. The Attorney General, or his assistant so attending, shall exercise all the powers and perform all the duties in respect of the action or proceeding which the district attorney would otherwise be authorized to exercise or perform. The district attorney shall only exercise such powers and perform such duties in the action or proceeding as are required of him by the Attorney General, or his assistant so attending.

180.090 Investigations and special prosecutions; calling on other departments and officers for assistance; employing special investigators. In making investigations of and conducting special prosecutions for violations or alleged violations of the criminal laws of the state, the Attorney General may call upon the Department of State Police or any other peace officer or department for assistance in making such investigations or, in his discretion, may employ special investigators for such purpose.

180.095 Antitrust Revolving Account. (1) There hereby is appropriated out of the General Fund in the State Treasury $250,000 for the purpose of providing funds to pay for personal services, travel, meals and lodging, and all costs, disbursements and other litigation expenses incurred by the Department of Justice in preparing, commencing and prosecuting actions and suits under the federal antitrust laws.

(2) The money appropriated by subsection (1) of this section shall be transferred to an account in the General Fund in the State Treasury to be known as the Antitrust Revolving Account. The amount appropriated by subsection (1) of this section is the maximum allowable balance in the revolving account. All moneys in such revolving account are appropriated and constitute a continuous appropriation out of the General Fund for the purposes of this section. The creation of the revolving account shall not require an allotment or allocation of moneys pursuant to ORS 291.234 to 291.260.

(3) All sums of money received by the Department of Justice under a judgment, settlement or compromise, including damages, attorney fees, costs, disbursements and other recoveries, in actions and suits under the federal antitrust laws shall, upon receipt, be deposited with the State Treasurer. If a court awards attorney fees to the Department of Justice in excess of the cost of providing attorney services, the difference between the award and the cost of the services shall be credited to the General Fund. The balance of such sums on behalf of the state, after deduction of expenses under subsection (1) of ORS 180.097, if any, shall be credited to the General Fund. However, if the action or suit was based on an expenditure or loss from a dedicated fund, the balance of such sums on behalf of the state, after deduction of expenses under subsection (1) of ORS 180.097, if any, to the extent of the expenditure or loss, shall be credited to the dedicated fund and the remainder thereof credited to the General Fund. The balance of such sums on behalf of any public body other than the state, after deduction of

expenses under subsection (1) of ORS 180.097, if any, shall be paid to the public body.
[1965 c.194 §2; 1971 c.85 §6; 1975 c 446 §6]

180.097 Reimbursement of Antitrust Revolving Account; credit to General Fund. (1) Whenever recovery under any action or suit under federal antitrust laws is made and expenses therefor were advanced from the Antitrust Revolving Account, the Attorney General shall present an accounting of all such expenses to the State Treasurer who shall credit the Antitrust Revolving Account with the amount of the accounting plus 20 percent thereof, which shall constitute expenses for purposes of ORS 180.095.

(2) The Emergency Board may authorize increases in the maximum allowable balance in the Antitrust Revolving Account to reflect the percentage credits thereto authorized by subsection (1) of this section. However, if by reason of such credits, the amount in the account exceeds such allowable maximum, the excess shall be credited to the General Fund.
[1971 c.85 §§8, 9; 1977 c.445 §1]

180.100 Legislative bills; preparation on request. The Attorney General shall, upon request of any member of or of any person elected to either branch of the Legislative Assembly of the State of Oregon, prepare all bills requested by any such member or person within a reasonable length of time prior to the commencement of any session of the legislature, and furnish the bills to such member or person for introduction on or before the first day of the session. The Attorney General shall during the sessions of the legislature prepare bills at the request of any member of the legislature as expeditiously as the number of deputies in his office will permit.

180.110 Keeping copies of opinions and records of cases; biennial report; printing and binding opinions. The Attorney General shall keep copies of all his opinions and a record of all cases, in any of the courts and tribunals, prosecuted or defended by him or in which he appears. He shall make a biennial report to the legislature of all the official business transacted by him for the biennial period ending December 31 prior to the meeting of the legislature. He shall have printed and bound all opinions rendered by him during the period, for distribution to the various state officers, public libraries and others entitled to receive them.
[Amended by 1971 c.418 §2]

180.120 Defending in criminal proceedings for Oregon State Police or member thereof; conducting prosecutions. (1) The Attorney General shall:

(a) Defend all criminal actions and proceedings in which the Department of State Police or any member thereof is concerned as a party, which require the services of an attorney or counsel in order to protect the interests of the state and are necessary for the purposes of the Department of State Police or the members thereof.

(b) Conduct such prosecutions as shall be directed by the Superintendent of State Police with the approval of the Governor.

(2) The Attorney General may appoint an attorney for the purpose of such defense or prosecution and certify the expenses thereof to the Department of State Police for payment from the moneys appropriated for the Department of State Police.
[Amended by 1971 c 418 §3]

180.130 Deputy Attorney General. The Attorney General shall appoint a Deputy Attorney General, who shall qualify as required by law, and who may do and perform, in the absence of the Attorney General, all the acts and duties that may be authorized and required to be performed by the Attorney General. The Attorney General shall be responsible for all the acts of his deputy.

180.140 Other assistants; salaries. (1) The Attorney General shall appoint the other assistants he deems necessary to transact the business of the office, each to serve at the pleasure of the Attorney General and perform such duties as he may designate and for whose acts he shall be responsible. Each assistant shall have full authority under the direction of the Attorney General to perform any duty required by law to be performed by the Attorney General.

(2) Each assistant so appointed shall be a person admitted to the practice of law by the Supreme Court of this state and shall qualify by taking the usual oath of office, conditioned upon the faithful performance of his duties.

(3) The Attorney General may appoint temporary assistants for a period not to exceed 15 months. Such temporary assistants shall be legally trained but are not required to be admitted to the practice of law by the Supreme Court of this state.

(4) Each assistant shall receive the salary fixed by the Attorney General, payable as other state salaries are paid. Each assistant so appointed shall devote his full time to the

business of the state, unless his employment on a part-time basis is otherwise fixed by the Attorney General.

(5) Special legal assistants or private counsel may be employed by the Attorney General, under his direction and control, in particular cases or proceedings, whenever he deems it appropriate to protect the interests of the state. The cost of such special assistants or counsel shall be charged to the appropriate officer or agency pursuant to ORS 180.160.
[Amended by 1969 c.543 §2; 1971 c.418 §4]

180.150 Clerks. Subject to any applicable provisions of the State Merit System Law, the Attorney General shall employ the necessary clerical aid required for the discharge of the duties imposed upon him by law, and fix compensation therefor, to be paid as other salaries are paid.

180.160 Charges for services to public agencies. Subject to rules prescribed by the Attorney General, in rendering assistance to the respective officers, departments, boards and commissions of state government, and other public bodies, the Department of Justice may charge such officers, agencies and public bodies (including, when appropriate, the Department of Justice itself) separately for the cost of such assistance, said cost including, but not limited to salaries of assistants and administrative and clerical salaries, investigative services, and capital outlay; and shall also charge such officers, departments, boards, commissions or public bodies for other costs incurred and disbursements made pursuant to request or authorization in connection with such assistance, and not paid directly out of moneys appropriated or otherwise available for expenditure by such officers, agencies or public bodies.
[1969 c 543 §1, 1971 c.85 §4]

180.165 Support enforcement fees. (1) The Attorney General shall, subject to the approval of the Joint Ways and Means Committee of the Legislative Assembly, or the Emergency Board if the legislature is not in session, establish and from time to time amend a fee schedule for support enforcement services.

(2) Support enforcement service fees shall be set in amounts designed to reimburse the Support Enforcement Division for the actual costs of its support enforcement services in particular cases, regardless of the costs of other support enforcement services for which a support enforcement fee may not become payable or be collectible.

(3) The district attorney may impose fees for support enforcement services in accordance with the Attorney General's fee schedule.
[1975 c 458 §9]

DEPARTMENT OF JUSTICE

180.170 Billing for services to public agencies. The Department of Justice shall estimate in advance the expenses that it will incur during the biennium under ORS 180.160 and 180.340, and shall render to officers, departments, boards and commissions of state government and other public bodies an invoice for their share of such expenses for periods within the biennium and in sufficient amounts to provide reasonable cash operating requirements for the Legal Division of the Department of Justice within the biennial period. Each officer, department, board or commission or other public body shall pay to the credit of the Department of Justice Operating Account such invoice as an administrative expense from funds or appropriations available to it in the same manner as other claims against the state or public body are paid. If the estimated expenses for any officer, department, board, commission or public body are more or less than actual expenses for the period covered by the invoice, the difference shall be reflected in the next following estimate of expenses.
[1971 c.85 §3; 1973 c.775 §5]

180.180 Department of Justice Operating Account. (1) The Department of Justice Operating Account is created. Moneys credited to the account are continuously appropriated for the purpose of paying expenses incurred by the Department of Justice, including those incurred by the Support Enforcement Division, but not including expenses described in ORS 180.095 that are reimbursable from the Antitrust Revolving Account.

(2) All moneys received by the Department of Justice pursuant to its activities except those received and creditable to the Antitrust Revolving Account shall be deposited in the State Treasury to the credit of the Department of Justice Operating Account.

(3) Subaccounts may be used in the Department of Justice Operating Account whenever the Department of Justice determines that operating needs of the department so require.
[1971 c.85 §2]

180.190 Department of Justice Current Expense Account. (1) The Executive Department is hereby authorized to draw a warrant in the amount of $15,000 payable to the Department of Justice from the Department of Justice Operating Account which shall then be deposited by the Department of Justice in the State Treasury in an account to be known as the Department of Justice Current Expense Account. The moneys so deposited are continuously appropriated for the purposes of this section and ORS 128.670, 180.170 and 294.695.

(2) Disbursements from the account established by subsection (1) of this section shall require the approval of the disbursing officer of the Department of Justice who shall be designated by the Attorney General. Disbursements may be made for any lawful purpose within the limits of the funds available and to the extent that immediate cash payments are necessary or beneficial to the operations of the department. The account shall be reimbursed at intervals not exceeding 30 days from any legislatively authorized appropriation or expenditure limitation in existence at that time for the department by the drawing of a claim in payment of the expenses advanced from the Department of Justice Current Expense Account.

(3) The account established by subsection (1) of this section shall be secured by a surety company authorized to do business in the State of Oregon in the penal sum of $15,000 and furnished by the disbursing officer. The premium of any bond so furnished shall be paid by the Department of Justice.
[1973 c.775 §§1, 2, 3; 1977 c 498 §4]

180.210 Department of Justice; Attorney General head and chief law officer. There hereby is constituted an executive department to be known as the Department of Justice. The Attorney General shall be the head of this department and the chief law officer for the state and all its departments.

180.220 Powers and duties. (1) The Department of Justice shall have:

(a) General control and supervision of all civil actions and legal proceedings in which the State of Oregon may be a party or may be interested.

(b) Full charge and control of all the legal business of all departments, commissions and bureaus of the state, or of any office thereof, which requires the services of an attorney or counsel in order to protect the interests of the state.

(2) No state officer, board, commission, or the head of a department or institution of the state shall employ or be represented by any other counsel or attorney at law.

(3) This section is subject to ORS 767.875.
[Amended by 1967 c.178 §3]

180.225 Attorney General representing public bodies in antitrust proceedings. In any proceeding under the antitrust laws of the United States in which the state or any public body within the state is interested, the Attorney General may, in his discretion, represent any such public body at its request, charging it for the cost of such representation pursuant to ORS 180.160.
[1971 c.418 §9]

180.230 Compensation not allowed state departments for attorney's services. No compensation shall be allowed to any person for services as an attorney or counselor to any department of the state government or to the head thereof, or to any board or commission, except in cases specially authorized by law.
[Amended by 1971 c 418 §6]

180.235 Authority of agency to employ counsel; qualification and salary; status. (1) Notwithstanding any provision of law to the contrary, whenever the Attorney General concludes that it is inappropriate and contrary to the public interest for his office to concurrently represent more than one public officer or agency in a particular matter or class of matters in circumstances which would create or tend to create a conflict of interest on his part, he may authorize one or both of such officers or agencies to employ its own general or special counsel in the particular matter or class of matters and in related matters. Such authorization may be terminated by the Attorney General whenever he determines that separate representation is no longer appropriate.

(2) Any counsel so employed shall be a member of the Oregon State Bar and shall be paid a salary or other compensation out of the funds appropriated to such officer or agency.

(3) In any matter in which the Attorney General has authorized employment of such counsel, any references to representation of such officer or agency by the Attorney General contained in any provision of law shall be deemed to refer to such counsel.
[1971 c 418 §8]

180.240 Attorney General and Department of Justice to have powers and prerogatives of district attorneys. The

Attorney General and the Department of Justice shall have the same powers and prerogatives in each of the several counties of the state as the district attorneys have in their respective counties.

SUPPORT ENFORCEMENT DIVISION

180.310 [Subsections (1) and (2) enacted as 1957 c 105 §2 and 1957 c.424 §1, 1961 c.629 §1; repealed by 1975 c 458 §18]

180.320 Cooperation with division in enforcement. All state agencies, district attorneys and all police officers of the state, county or any municipality or court thereof, shall cooperate with the Support Enforcement Division of the Department of Justice in furnishing and making available information, records and documents in the enforcement of ORS 180.320 to 180.370.
[1957 c 105 §4, 1971 c.779 §4]

180.330 District attorneys not relieved from duties relating to enforcement of support laws. ORS 180.320 to 180.370 are not intended to relieve any district attorney from performing his duties, powers and functions under the statutes of this state relating to the enforcement of support and of the criminal laws of this state.
[1957 c 105 §5]

180.340 Support Enforcement Division established; employment of personnel authorized. There is established the Support Enforcement Division of the Department of Justice to be maintained, operated and controlled under the supervision of the Attorney General. The Attorney General may employ attorneys, investigators and other personnel necessary to carry out the duties and functions of the division and fix their compensation, subject to any applicable provision of the State Merit System Law.
[1957 c.105 §1]

180.350 Investigators to have authority of peace officers. Investigators employed by the Attorney General under ORS 180.320 to 180.370 shall have all the authority given by statute to peace officers of this state, including the authority to serve and execute warrants of arrest.
[1957 c.105 §7]

180.360 Division exempt from payment of certain court fees. No filing, recording or court fees shall be required from the Support Enforcement Division of the Department of Justice by any county clerk, county recorder or any district clerk for the filing of any cases, documents or processes.
[1957 c 105 §3]

180.370 Disposition of moneys received by division. All moneys received by the Support Enforcement Division of the Department of Justice shall be turned over to the Adult and Family Services Division for proper credit.
[1957 c 105 §6]

CONSUMER PROTECTION DIVISION

180.510 Consumer Protection Division. There is established within the Department of Justice the Consumer Protection Division to carry out the functions of the Attorney General under this section and ORS 20.098, 83.710 to 83.750, 83.820 to 83.895, 646.605 to 646.656 and 646.990. The Consumer Protection Division shall be maintained, operated and controlled by the Attorney General, who may employ personnel necessary to carry out the duties and functions of the division and fix their compensation, subject to any applicable provisions of the State Merit System Law.
[1971 c 744 §25]

INVESTIGATION OF ORGANIZED CRIME

180.600 Definitions for ORS 180.600 to 180.630. As used in ORS 180.600 to 180.630:

(1) "Department" means the state Department of Justice.

(2) "Organized crime" means any combination or conspiracy of two or more persons to engage in criminal activity as a significant source of income or livelihood, or to violate, aid or abet the violation of criminal laws relating to prostitution, gambling, loan sharking, theft, drug abuse, illegal alcohol or drug distribution, counterfeiting, extortion or corruption of law enforcement officers or other public officers or employes.
[1977 c 754 §1]

180.610 Investigation of organized criminal activity; powers and duties of department. The Department of Justice shall:

(1) Provide all administrative, clerical, investigative and legal assistance required by ORS 180.600 to 180.630.

(2) Establish a coordinated system of collecting, storing and disseminating information relating to organized crime.

(3) Develop and maintain a liaison between local, state and federal law enforcement agencies in Oregon, assisting them in the investigation and suppression of organized criminal activity and encouraging cooperation among those agencies.

(4) Conduct comprehensive factual studies of organized criminal activity in Oregon, outlining existing state and local policies and procedures with respect to organized crime, and formulating and proposing such changes in those policies and procedures as the department may deem appropriate.

(5) Investigate allegations of corruption or malfeasance by public officials in Oregon and, where appropriate, coordinate, cooperate and assist in taking legal action.

(6) Investigate investment of funds in Oregon suspected to have been generated by criminal activities.
[1977 c.754 §2]

180.620 Investigators to have authority of peace officers. All investigators employed pursuant to ORS 180.600 to 180.630 shall have all statutory powers and authority of peace officers and police officers of the State of Oregon.
[1977 c 754 §3]

180.630 Acceptance of federal grant of funds; expenditure limitations. Subject to the provisions of ORS 291.375, the department may submit applications for federal grants and, when approved, accept and expend funds received subject to budgetary limits imposed by the Legislative Assembly or as modified by the Emergency Board.
[1977 c 754 §4]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173 170, I, Thomas G Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173 160 and other changes specifically authorized by law

Done at Salem, Oregon,
October 1, 1977.

Thomas G Clifford
Legislative Counsel