Chapter 184

1979 REPLACEMENT PART

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ECONOMIC DEVELOPMENT DEPARTMENT

184.001 Definitions for ORS 184.001 to 184.210. As used in ORS 184.001 to 184.210, unless the context requires otherwise:

(1) "Commission" means the Economic Development Commission.

(2) "Department" means the Economic Development Department.

(3) "Director" means the Director of the Economic Development Department. [Formerly 184 105]

184.003 Policy for economic and community development. (1) The Legislative Assembly recognizes that:

(a) There exists in the state a great and growing need for balanced economic and community development to provide and maintain orderly economic growth and the preservation and enhancement of all facets of Oregon's environment;

(b) Only properly planned and coordinated growth and development can maintain and improve the total environment by broadening the tax base so that essential governmental services such as education, health, welfare, environmental and transportation services can be adequately funded;

(c) A great imbalance presently exists in the degree of economic health between the state's metropolitan areas and the state's rural communities and that balanced development opportunities must be made available to rural areas to bring about the geographical distribution of business and industry necessary to a healthy economy and environment for all Oregonians;

(d) Oregon cannot offer an attractive future to its youth, particularly those in rural areas, unless additional jobs are made available; and without new payrolls and the expansion and relocation of existing payrolls the state will suffer a loss of its young people, a decline of its rural communities and damage to our quality of life;

(e) Assistance and encouragement of balanced industrial, commercial and community development and of enhanced world trade opportunities are important functions of the state and that the welfare of the state, its people and its institutions depends upon a coordinated program to achieve this development and enhancement on an orderly basis;

(f) The availability of this assistance and encouragement is an important inducement to industrial and commercial enterprises to locate, remain and relocate in those portions of the state which will contribute most to the environment and economy of Oregon and that the full cooperation of state, local and federal agencies is necessary to this end; and

(g) Development of new and expanded overseas markets for world trade is an area of great potential for furthering balanced economic growth and can be especially significant in the field of increased processing of Oregon agricultural commodities and manufactured products thereby contributing to economic diversification.

(2) It is the purpose of ORS 184.001 to 184.210 to:

(a) Maintain and improve the existing economic base of the state;

(b) Diversify the economic base of the state;

(c) Expand international trade;

(d) Assist the economically lagging areas in the state; and

(e) Accomplish the purposes of this subsection in a way that complies with all local, state and federal regulations relating to environmental quality. [Formerly 184.120; 1975 c 225 §1; 1979 c 182 §4]

184.005 Economic Development Commission; confirmation; qualifications; term; vacancy; compensation and expenses; chairman; quorum. (1) There is established an Economic Development Commission consisting of seven members appointed by the Governor and confirmed by the Senate as provided in ORS 171.560 and 171.570. One member shall be appointed from each congressional district with due consideration given to geographical representation, and the other members shall be from the state at large. The member appointed from the second congressional district shall be resident of the area lying east of the summit of the Cascade Mountains. Two members shall be representative of agriculture.

(2) The term of office of each member is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause,

the Governor shall make an appointment to become immediately effective for the unexpired term.

(3) A member of the commission shall be entitled to compensation and expenses as provided in ORS 292.495.

(4) The commission shall select one of its members as chairman and another as vice-chairman, for such terms with duties and powers necessary for the performance of the functions of such offices as the commission determines.

(5) Four members of the commission constitute a quorum for the transaction of business. [1973 c.691 §§2, 3; 1975 c.225 §2]

Note: 184.005 and 184.015 were enacted into law by the Legislative Assembly but were not added to or made a part of 184 001 to 184.210 by legislative action See the Preface to Oregon Revised Statutes for further explanation.

184.010 State development policy and program; commission duties. (1) The Economic Development Commission shall establish a comprehensive policy for balanced economic and community development, including the enhancement of world trade opportunities, of the State of Oregon and shall:

(a) Identify major constraints upon and opportunities for economic development;

(b) For the major constraints and opportunities identified, create a program proposing the roles for public and private entities throughout this state to best take advantage of those major opportunities and overcome those major constraints and which will give particular recognition to the needs, problems and resources of the rural, economically lagging or underdeveloped areas of the state;

(c) Encourage public and private entities to voluntarily participate in that program; and

(d) Direct the Economic Development Department to implement the state-level functions required by that program.

(2) In establishing this policy and creating this program and directing its implementation, the Economic Development Commission shall:

(a) Consult and advise with, and bring together and review pertinent data, plans and programs and budgetary proposals of, state agencies, municipalities and other public bodies, as pertinent to this comprehensive policy and program and their implementation.

(b) Provide a center of coordination and a clearinghouse for research, planning, programming, basic data, public information, and reports regarding balanced economic and community development, and for stimulation and guidance in pursuit of the planning and programming processes and the implementation.

(c) Conduct conservation and development research, and coordinate research by state agencies, municipalities and other public bodies in the field of balanced economic and community development, using when feasible the resources and potentials of the state institutions of higher learning and other state agencies and encouraging the cooperation of other research and developmental organizations.

(d) Consult and advise with and assist the localities and subdivisions of the state in their developmental planning, using when feasible the resources and potentials of the state institutions of higher learning.

(e) Provide contact and liaison with state agencies, municipalities and other public entities, other states and interstate bodies, industrial, commercial, educational, research and civic groups and others.

(f) Consult and advise with and assist each interested party within the state in utilizing existing foreign markets and identifying new avenues of international trade for Oregon products.

(g) Recommend biennially to the Legislative Assembly and annually to the Legislative Committee on Trade and Economic Development corrective legislation needed to overcome the major constraints upon economic development including, but not limited to, conflicting regulatory programs of state agencies. [Formerly 184.150; 1969 c.80 §13; 1973 c.691 §4; 1975 c.225 §3; 1979 c.182 §5]

184.015 Directory of Oregon Manufacturers; other publications; Economic Development Commission Publication Account. (1) The Economic Development Commission may cause to be published a Directory of Oregon Manufacturers and such other publications relating to the economic development of the state. The cost of such publications shall be fully recovered through the sales thereof.

(2) All revenues derived from the sale of publications of the Economic Development Commission shall be deposited in the Econom-

ic Development Commission Publication Account, which is hereby established as an account in the General Fund.

(3) The moneys credited to the Economic Development Commission Publication Account under subsection (2) of this section, shall be continuously appropriated exclusively to pay for publication costs of the Economic Development Commission.

(4) Upon July 22, 1973, any revenues on deposit in miscellaneous receipts of the Economic Development Commission up to $31,375 derived from the sale of publications of the Economic Development Commission shall be deposited in the Economic Development Commission Publication Account. [1973 c 691 §22]

Note: See note under 184.005.

184.020 [1967 c.397 §14; 1973 c.691 §5; 1975 c 225 §4; repealed by 1975 c.605 §33]

184.025 Prerequisites for certain commission actions. Prior to the approval of bond financing of economic development projects under ORS 280.310 to 280.390, the making of a loan under ORS 777.850 to 777.890 or the making of any loan or the granting of any moneys from any source, the Economic Development Commission shall:

(1) Determine that the action is cost effective, considering both major public expenses and major public benefits;

(2) Determine that the action is the best use of the moneys involved, considering other applications before the commission for those moneys;

(3) Find that the project involved is consistent with the commission's comprehensive policy and the department's programs;

(4) Find that the project involved is consistent with all applicable adopted local economic development plans; and

(5) Provide for public notice of, and public comment on, the action. [1979 c 182 §3]

Note: 184.025 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 184 or any series therein by legislative action See the Preface to Oregon Revised Statutes for further explanation.

184.030 Advisory and technical committees. To aid and advise the Economic Development Commission in the performance of its duties, the commission may establish such advisory and technical committees as it considers necessary. Such committees may be continuing or temporary. The commission shall determine the representation, membership, terms and organization of the committees and shall appoint their members. The Director of the Economic Development Department, or his designee, shall be an ex officio member of each committee. Members of the committees appointed pursuant to this section shall receive no compensation, but may receive payment for their actual and necessary travel and other expenses while engaged in the performance of their official duties. [1967 c.397 §15; 1973 c.691 §6]

184.040 Acceptance and use of federal aid and other money and property. (1) The Economic Development Commission may apply for, receive from the United States or any of its agencies, and disburse or supervise the disbursement of federal aid for economic development research planning and development in this state as authorized by ORS 184.001 to 184.210. The commission may also disburse or supervise the disbursement of funds provided by the State of Oregon for expenditure as a condition of receiving the federal aid.

(2) The Economic Development Commission may take by gift, devise or bequest or in any other lawful manner, money or property for planning and development as authorized by ORS 184.001 to 184.210.

(3) The Economic Development Commission shall deposit money received pursuant to this section in a special account in the General Fund with the State Treasurer as provided in ORS 293.265 to 293.275. The money shall be expended by the commission for the purposes for which it is received. [Formerly 184.195; 1973 c.691 §7]

184.050 Federal Planning Revolving Account. There is continued in the General Fund of the State Treasury a revolving account known as the Federal Planning Revolving Account. All moneys in the Federal Planning Revolving Account are appropriated continuously and, pending receipt by the State Treasurer of federal funds for the payment of federally financed planning projects administered by the Economic Development Commission or the Economic Development Department, shall be used by the commission or the department to pay the cost of completing such planning projects. Upon notice that such federal funds have been received by the State Treasurer, the director shall prepare a claim against such funds for the amount advanced

from the Federal Planning Revolving Account for the purposes of this section, and the Executive Department shall issue a warrant in payment of such claim, for credit to and reimbursement of the Federal Planning Revolving Account. [Formerly 184.220; 1973 c.691 §8]

184.105 [1963 c.580 §17; 1967 c.397 §2; 1969 c.80 §14, 1971 c.57 §2; 1973 c.691 §10; renumbered 184 001]

184.110 [1957 c.624 §2; repealed by 1963 c.580 §103]

184.120 [1957 c.624 §1; 1967 c.397 §3; 1969 c.80 §15; 1973 c.691 §1; renumbered 184.003]

184.125 Economic Development Department; authority. (1) The Economic Development Department is created. Pursuant to policies of the Economic Development Commission, the Economic Development Department shall formulate and recommend to the commission, for commission approval and subsequent implementation by the department, a program of economic development for the state. Through research, promotion and coordination of activities in the state, the department shall foster the most desirable growth and geographical distribution of agriculture, industry and commerce in the state. The department shall serve as a central coordinating agency and clearinghouse for activities and information concerning the resources and economy of the state.

(2) The department shall have no regulatory power over the activities of private persons. Its functions shall be solely advisory, coordinative and promotional. [1963 c.580 §18; 1967 c.397 §4; 1969 c.80 §16; 1971 c 57 §3, 1973 c 691 §11, 1979 c.182 §6]

184.130 [1957 c.624 §3; repealed by 1963 c 580 §103]

184.135 Director; deputy director; appointment. (1) The Economic Development Department shall be under the supervision and control of a director appointed by the Economic Development Commission. The director shall hold his office at the pleasure of the commission and shall be responsible for the performance of the functions of the department.

(2) The director may appoint a deputy director who serves at the pleasure of the director. The deputy director shall be in the unclassified service and shall receive such salary as may be set by the director, unless otherwise provided by law. [1963 c 580 §19; 1969 c 80 §17, 1971 c 57 §4; 1973 c 691 §12; 1977 c 700 §5]

184.137 Authority of director. The Director of the Economic Development Department may:

(1) For purposes of administration, and with the approval of the Economic Development Commission, organize and reorganize the department in whatever manner he deems necessary to conduct the work of the department properly.

(2) Appoint all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to applicable provisions of the State Merit System Law. Subject to any other applicable law regulating travel expenses, the officers and employes of the department shall be allowed such reasonable and necessary travel and other expenses as may be incurred in the performance of their duties. [1963 c.580 §20; 1969 c.80 §18; 1971 c.57 §5; 1973 c.691 §13]

184.140 [1957 c.624 §4; 1969 c.80 §19; 1971 c 57 §6; repealed by 1973 c.691 §21]

184.150 [1957 c.624 §5; 1967 c.397 §11; renumbered 184.010]

184.160 Duties of department. The Economic Development Department shall:

(1) Implement programs of the Economic Development Commission, as directed by the commission.

(2) Provide at least four field representatives in the various geographical regions of the state to:

(a) Work with local units of government and the private sector to encourage and to assist them as they establish and carry out economic development plans and programs under ORS 280.500;

(b) Promote local awareness of commission policy and department programs and services and of assistance and economic incentives available from government at all levels; and

(c) Deliver to local units of government and the private sector the assistance and services available from the department, including publications, research and technical and financial assistance programs.

(3) Process requests received by state agencies and interested parties for information pertaining to industrial and commercial locations and relocations throughout the state.

(4) Consult and advise with, coordinate activities of, and give technical assistance and encouragement to, state and local organizations, including local development corpora-

tions, county, city, and metropolitan-area committees, chambers of commerce, labor organizations and similar agencies interested in obtaining new industrial plants or commercial enterprises.

(5) Act as the state's official liaison agency between persons interested in locating industrial or business firms in the state, and state and local groups seeking new industry or business, maintaining the confidential nature of the negotiations it conducts as requested by persons contemplating location in the state.

(6) Coordinate state and federal economic development programs.

(7) Consult and advise with, coordinate activities of, and give technical assistance and encouragement to all parties including, but not limited to, port districts within the state working in the field of international trade or interested in promoting their own trading activity.

(8) Provide advice and technical assistance to Oregon business and labor.

(9) Collect and disseminate information regarding the advantages of developing new business and expanding existing business in the state.

(10) Aid local communities in planning for and obtaining new business to locate therein and provide assistance in local applications for federal development grants. [1957 c.624 §6; 1969 c.80 §20; 1973 c 691 §14; 1979 c.182 §7]

184.165 Designation of department as agency to obtain financial assistance involving federal port programs. For purposes of the Merchant Marine Act (46 U.S.C. 861 et seq.), the Economic Development Department shall be the state agency to apply to the Secretary of Commerce for financial assistance to assist ports in achieving compliance with federal law or regulations relating to environmental protection, public health and safety, or port or cargo security. [1975 c.288 §2]

184.170 [1957 c 624 §7; 1969 c.80 §21; 1971 c.57 §7; 1973 c.691 §15; repealed by 1979 c.182 §12]

184.180 [1957 c.624 §8; 1969 c.80 §22; 1973 c.691 §16; repealed by 1979 c 182 §12]

184.190 [1957 c.624 §9; 1967 c.397 §5, 1969 c.80 §23; 1971 c.57 §8; 1973 c.691 §17; repealed by 1979 c.182 §12]

184.195 [1961 c 315 §§1, 2, 3, 1967 c.397 §12, renumbered 184.040]

184.196 [1967 c.397 §8; 1969 c.80 §24; repealed by 1973 c.691 §21]

184.198 Federal Economic Development Research Account. There is created in the General Fund of the State Treasury a revolving account known as the Federal Economic Development Research Account. All moneys in such account are appropriated continuously and, pending receipt by the State Treasurer of federal funds for the payment of federally financed economic development research projects administered by the Economic Development Commission or the Department of Economic Development, shall be used by the department to pay the costs of completing such research projects. Upon notice that such federal funds have been received by the State Treasurer, the director shall prepare a claim against such funds for the amount advanced from the Federal Economic Development Research Account for the purposes of this section, and the Executive Department shall issue a warrant in payment of such claim, for credit to and reimbursement of such account. [1967 c.397 §9; 1973 c 691 §9; 1975 c.371 §6]

184.200 [1957 c.624 §10; 1967 c.397 §6; 1969 c.80 §25; repealed by 1971 c 57 §11]

184.210 Promotion of formation of state development credit corporations. The Economic Development Department shall encourage and promote the formation of state development credit corporations, as defined in ORS 63.210, where it determines that their formation is in the public interest. The department may consult with, advise and give technical assistance to persons interested in organizing a state development credit corporation. [1959 c.660 §17, 1969 c 80 §26; 1973 c.691 §18]

184.220 [1965 c 597 §3; 1967 c.397 §13; renumbered 184 050]

184.260 [1961 c.137 §§1, 2, 3, 4, 5; 1961 c.716 §1; 1963 c.589 §1; renumbered 273 380]

EXECUTIVE DEPARTMENT

184.305 Executive Department; transfer of authority from other agencies; divisions. (1) By transformation of the Department of Finance that has operated under ORS chapter 291, chapter 80, Oregon Laws 1969, establishes in the executive-administrative branch of the government of the state a coordinative, directive department to be known as the Executive Department.

(2) Chapter 80, Oregon Laws 1969, transfers to the department:

(a) The functions of the Department of Emergency Services that has operated under ORS chapter 401;

(b) The functions of the Intergovernmental Coordinator who has operated under ORS 190.310 to 190.340; and

(c) The functions of personnel program development and other nonappellate personnel functions of the Civil Service Commission that has operated under ORS chapter 240.

(3) Initially, the department shall include the following divisions and offices:

(a) Budget Division.

(b) Management Systems Division.

(c) Accounting and Data Systems Division.

(d) Personnel Division.

(e) Emergency Services Division.

(f) Planning Division.

(g) Intergovernmental Coordination Division.

(h) Office of Legislative Liaison.

(i) Office of Economic Analysis.

(j) Office of Committee Coordination. [1969 c.80 §1 (1), (2), (3); 1971 c.57 §9]

184.310 [1965 c.299 §1; renumbered 390.010]

184.315 Director of Executive Department; appointment; compensation; bond. (1) The department shall be under the supervision and control of a director, who shall be responsible for the functions of the department. The Governor may, however, assume the office of director of the department whenever and for whatever time he deems advisable, but shall receive no increased compensation for doing so.

(2) Subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570, the Governor shall appoint the director, who shall hold his office at the pleasure of the Governor. The person appointed as director shall be well qualified by training and experience to perform the functions of the office.

(3) An appointed director of the department shall receive such salary as is provided by law or, if not so provided, as is fixed by the Governor.

(4) Before entering upon the functions of his office, the director shall give to the state a fidelity bond with one or more corporate sureties authorized to do business in this state in the penal sum fixed by the Governor. [Formerly 291.007; 1973 c.792 §4]

184.325 Duties of director; administrative divisions; appointive power; exception. (1) The Director of the Executive Department, with the approval of the Governor, shall organize and reorganize the department in the manner he considers necessary to conduct the work of the department properly.

(2) The functions of the department may be divided into administrative divisions or staff offices. Each division or office shall be under the supervision of a person appointed by the director, with the approval of the Governor. The appointee shall serve at the pleasure of the director, not be subject to the State Merit System Law, and be well qualified by technical training and experience in the functions he is to perform.

(3) Notwithstanding subsection (2) of this section, the Administrator of the Personnel Division shall be appointed and removed in the manner set forth in ORS 240.125 and 240.130. [Formerly 291.005]

Note: The amendment to 184.325 by section 27, chapter 468, Oregon Laws 1979, becomes operative July 1, 1981. See section 38, chapter 468, Oregon Laws 1979. 184.325 as amended is set forth for the users' convenience

184.325 (1) The Director of the Executive Department, with the approval of the Governor, shall organize and reorganize the department in the manner the director considers necessary to conduct the work of the department properly.

(2) The functions of the department may be divided into administrative divisions or staff offices. Each division or office shall be under the supervision of a person appointed by the director, with the approval of the Governor. The appointee shall serve at the pleasure of the director, not be subject to the State Personnel Relations Law, and be well qualified by technical training and experience in the functions the appointee is to perform.

184.335 Deputy director; subordinate officers. (1) With the approval of the Governor, the director may appoint a deputy director who shall serve at the pleasure of the director, not be subject to the State Merit System Law, and have full authority to act for the director, subject to his control. The appointment of the deputy director shall be by written order, filed with the Secretary of State.

(2) Except as provided in ORS 184.325 and subsection (1) of this section, the director, subject to applicable provisions of the State Merit System Law, shall appoint all subordi-

nate officers and employes of the department, prescribe their functions and fix their compensation. [Formerly 291.009]

184.340 Rules. The department, with the approval of the Governor, may make reasonable rules and regulations that are necessary or proper for the administration of the laws that the department is charged with administering. [Formerly 291 013]

184.345 Executive Department to provide services to certain divisions on reimbursable basis. The Executive Department shall provide such administrative and other services to the Corrections Division, the Mental Health Division and the State Board of Education as such divisions and the department may agree on a reimbursable basis. [1969 c.597 §268]

184.355 Institutional Services Division. (1) The Institutional Services Division is established in the Executive Department. The division shall be under the supervision of a person appointed in the manner provided in ORS 184.325.

(2) The Institutional Services Division may provide administrative facilities and services for the divisions listed in ORS 176.610. However, the discretionary duties, advisory functions or review powers vested by law in such divisions shall be performed solely by the respective divisions. [1969 c 597 §5]

184.410 [Formerly 182.410; amended by 1965 c.416 §1; 1969 c 593 §33, repealed by 1969 c.653 §1]

184.420 [Formerly 182.420; repealed by 1969 c.653 §1]

184.430 [Formerly 182.430, 1965 c.416 §2, repealed by 1969 c.653 §1]

184.440 [Formerly 182 440; repealed by 1969 c 653 §1]

184.450 [Formerly 182.450; repealed by 1969 c 653 §1]

184.460 [1957 c 664 §1; 1959 c 465 §1, renumbered 542.710]

184.470 [1957 c 664 §2; 1959 c 465 §2, renumbered 542 720]

DEPARTMENT OF COMMERCE
(Generally)

184.510 Definitions for ORS 184.520 to 184.570. As used in ORS 184.520 to 184.570:

(1) "Department" means the Department of Commerce.

(2) "Director" means the Director of Commerce. [1963 c.580 §1]

184.520 Department of Commerce established. (1) The Department of Commerce is established.

(2) The Department of Commerce shall consist of the following:

(a) Banking Division.

(b) Corporation Division.

(c) Insurance Division.

(d) Real Estate Division.

(e) Housing Division.

(f) Consumer Services Division.

(g) Fire Marshal Division.

(h) Building Codes Division.

(i) Such professional licensing and advisory boards as are established by law within the Department of Commerce. [1963 c 580 §2; 1971 c.57 §10; 1971 c.505 §8; 1971 c 753 §3; 1975 c.429 §1]

184.530 Director of Commerce; appointment; confirmation. (1) The Department of Commerce shall be under the supervision of a Director of Commerce who shall be appointed by and shall hold his office at the pleasure of the Governor.

(2) The appointment of the Director of Commerce shall be subject to confirmation by the Senate in the manner provided in ORS 171.570.

(3) When an appointment to the office of Director of Commerce is made in the interim between legislative sessions, the Senate shall act through the Committee on Executive Appointments provided by ORS 171.560 in the manner provided in that section, and the director so appointed shall be subject to the confirmation of the Senate when it next convenes. [1963 c 580 §3; 1969 c 695 §3]

184.540 Authority of director. (1) Except as otherwise provided by law, the Director of Commerce shall coordinate all of the activities of the department, and shall have the power of general supervision over the administration of each division and professional licensing, advisory and administrative review agency within the department, and shall be directly responsible to the Governor therefor.

(2) The director may provide administrative facilities and services for the professional licensing, advisory and administrative review

agencies established within the department, provided that the discretionary duties, advisory functions or review powers vested by law in such agencies shall be performed solely by the respective agencies. Such agencies shall use the administrative facilities and services so provided and shall pay to the director the cost thereof, as determined by the director. Moneys received by the director under this subsection shall be paid into the State Treasury and credited to the Commerce Administration Account.

(3) Except as otherwise provided by law, the director may appoint subordinate officers and employes to assist him in carrying out the duties and responsibilities imposed upon the director. He may prescribe the duties and fix the compensation of such officers and employes, subject to the applicable provisions of the State Merit System Law. [1963 c.580 §5; 1965 c.597 §5]

184.545 Director as ex officio member of certain boards. The Director of Commerce, or his designated representative, shall serve as an ex officio member of all professional licensing boards and advisory boards in the Department of Commerce but without the right to vote. [1971 c.753 §7]

184.550 Preparation and reporting of plans; administrative organization of department; deputy. (1) The Director of Commerce shall develop and report to the Governor on legislative, budgetary, and administrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to the department. To accomplish this end, the director may hold public hearings, consult with and use the services and cooperation of other state agencies, employ consultants and appoint advisory and technical committees to assist in the work.

(2) For the purpose of administration, the director shall review the organization of the department and report to the Governor on such changes as he deems necessary properly to segregate and conduct the work of the department.

(3) Whenever a power is granted to the director the power may be exercised by such officer or employe within the department as designated in writing by the director. Any such designation shall be filed in the office of the Secretary of State. [1963 c 580 §6]

184.560 Salary and expenses of director; bond. The Director of Commerce shall receive such salary as may be provided by law. In addition to his salary, the director shall, subject to the limitations otherwise provided by law, be reimbursed for all reasonable expenses necessarily incurred by him in the performance of his official duties. Before entering upon the duties of his office the director shall give to the state a fidelity bond with one or more corporate sureties authorized to do business in this state in the sum fixed by the Governor. [1963 c.580 §4]

184.570 Commerce Administration Account. (1) There hereby is established in the General Fund of the State Treasury the Commerce Administration Account. Except as otherwise provided by law, all moneys appropriated or credited to the Commerce Administration Account hereby are appropriated continuously for and shall be used by the director for the purpose of carrying out the duties and responsibilities imposed upon him.

(2) The Department of Commerce shall be subject to the allotment system provided for in ORS 291.234 to 291.260. [1963 c.580 §7; 1965 c.597 §6]

184.575 [1971 c 753 §1; renumbered 670.275]

184.580 [1971 c.753 §6; 1973 c.387 §26; repealed by 1975 c.429 §2]

(Consumer Services)

184.590 Consumer Services Division; administrator. (1) The Consumer Services Division shall be under the supervision and control of an administrator, appointed by the Director of Commerce, with the approval of the Governor. The administrator shall hold his office at the pleasure of the Director of Commerce and shall be responsible for the performance of the duties imposed upon his division.

(2) The administrator of the Consumer Services Division shall have the authority in his division to:

(a) For the purpose of administration, with the approval of the Director of Commerce, organize and reorganize, as necessary, the internal affairs of the division in the manner that he deems necessary to properly conduct the work of the division.

(b) Appoint all subordinate officers and employes of the division and prescribe their

duties and fix their compensation, subject to the applicable provisions of the State Merit System Law. [1971 c.753 §4]

184.595 Duties of Consumer Services Division. (1) It shall be the duty of the Consumer Services Division to:

(a) Coordinate consumer services carried on by state departments and agencies;

(b) Further consumer education;

(c) Conduct studies and research concerned with consumer services; receive, process, investigate and take action on complaints from consumers; and refer such complaints as require further action to appropriate agencies for enforcement;

(d) Inform the Governor and the Attorney General and other law enforcement agencies of violations of laws or regulations affecting consumers as its investigations or studies may reveal;

(e) Advise the executive and legislative branches in matters affecting consumer interests;

(f) Study and report all matters referred to it by the legislature or the Governor; and

(g) Inform the public through appearances at federal and state committee, commission or department hearings of the policies, decisions or legislation beneficial or detrimental to consumers.

(2) Every state agency shall cooperate with the Consumer Services Division in carrying out its functions under this section.

(3) To assist in carrying out chapter 753, Oregon Laws 1971, there is created in the division a Consumer Advisory Council.

(a) The consumer council shall consist of seven members appointed by the director, two of whom shall represent business, two of whom shall represent labor, and three of whom shall represent voluntary consumer agencies.

(b) Except as provided in paragraph (a) of this subsection the director shall appoint members of the Consumer Advisory Council in the manner set forth in ORS 670.340.

(c) The members of the council shall be entitled to compensation and expenses computed as provided in ORS 292.495.

(d) All meetings of the council shall be open and public and all persons shall be permitted to attend any meeting of the council. [1971 c 753 §5; 1973 c 832 §1]

Note: The Legislative Counsel has not, pursuant to 173 160, undertaken to substitute specific ORS references for the words "this Act" in 184.595. Chapter 753, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located following the Index in volume 6 of Oregon Revised Statutes (1971 Replacement Parts)

DEPARTMENT OF TRANSPORTATION (Generally)

184.610 Definitions for ORS 184.610 to 184.647. As used in ORS 184.610 to 184.647, unless the context requires otherwise:

(1) "Commission" means the Oregon Transportation Commission.

(2) "Department" means the Department of Transportation.

(3) "Director" means the Director of Transportation. [1969 c.599 §1; 1973 c.249 §1]

184.612 Oregon Transportation Commission; confirmation; qualifications; term; compensation and expenses. (1) There is established the Oregon Transportation Commission consisting of five members appointed by the Governor, subject to confirmation as provided by ORS 171.560 and 171.570. At least one member shall be appointed from each congressional district in the state and the member from the second congressional district shall be from the area east of the Cascade Range. Not more than three members shall belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

(2) The term of office of each member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment, but no person shall be eligible to serve more than two consecutive terms. In case of a vacancy for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

(3) A member of the commission is entitled to compensation and expenses as provided by ORS 292.495. [1973 c.249 §3]

184.613 Officers; quorum; meetings; effect of vacancy; seal. (1) The Governor shall appoint one of the commissioners as chairman, and another as vice-chairman. The

chairman and vice chairman shall have such terms, duties and powers as the commission determines are necessary for the performance of such offices.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) The commission shall meet at least once a month, at a time and place determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the chairman or of a majority of the commission.

(4) No vacancy shall impair the right of the remaining commissioners to exercise all the powers of the commission, except that three members of the commission must agree in the selection, vacation or abandonment of state highways, and in case the commissioners are unable to agree the Governor shall have the right to vote as a member of the commission.

(5) The commission may provide an official seal. [1973 c.249 §§4, 9; 1979 c.293 §1]

184.615 Department of Transportation; divisions. (1) The Department of Transportation is established.

(2) The Department of Transportation shall consist of the director, deputy directors and assistant directors of the department and all personnel employed in the department. The department shall consist of the following administrative divisions:

(a) Aeronautics Division.

(b) Highway Division.

(c) Motor Vehicles Division.

(d) Public Transit Division.

(e) Parks and Recreation Division.

(3) Each division shall be under the supervision and control of a chief administrative officer appointed by the director with the approval of the commission. A division administrator shall be in the unclassified service for purposes of the State Merit System Law. A division administrator, with the approval of the director, may organize and reorganize the division to improve the administration of the work of the division. [1969 c.599 §2; 1973 c 249 §15, 1975 c 371 §5; 1979 c 184 §4]

184.616 Department powers given commission; service of summons. (1) Notwithstanding any other provisions of law, the Oregon Transportation Commission has the power to adopt any rules, establish any policy or exercise any other duty, function or power where a statute gives such power to the Department of Transportation.

(2) Where service of summons or other process is required by statute to be served on the Director of the Department of Transportation, the Department of Transportation or the Oregon Transportation Commission, such service shall be made upon the office of the director. [1979 c.186 §§2, 3]

184.617 Functions of commission and department. (1) It is the function of the commission to establish the policies for the operation of the department in a manner consistent with the policies and purposes of ORS 184.610 to 184.647. In addition, the commission shall perform any other duty vested in it by law.

(2) The commission shall keep complete and accurate records of all the meetings, transactions and business of the commission at the office of the department.

(3) The commission shall have general power to coordinate and administer programs relating to aeronautics, highways, motor vehicles, parks and recreation areas, public transit and such other programs related to transportation as may be assigned by law to the department.

(4) The department shall be the recipient of all federal funds paid to or to be paid to the state to enable the state to provide the programs and services assigned to the department. [1973 c.249 §10; 1979 c 186 §5]

184.618 Duties of commission and divisions in preparing and implementing state transportation policy. (1) As its primary duty, the commission shall develop and maintain a state transportation policy and a comprehensive, long-range plan for a multimodal transportation system for the state which encompasses economic efficiency, orderly economic growth, safety and environmental quality. The plan shall include, but not be limited to, aviation, highways, mass transit, pipelines, ports, rails and waterways. The plan shall be used by all agencies and officers to guide and coordinate transportation activities and to insure transportation planning utilizes the potential of all existing and developing modes of transportation.

(2) Each division shall prepare plans to carry out its responsibility and collect, summarize and analyze information concerning the condition and usage of the service provid-

ed. Each division shall compile such information in a form suitable for use by the director in the planning activities of the department.

(3) As the plan is developed by the commission, the director shall prepare and submit to the commission for approval, implementation programs. Work approved by the commission to carry out the plan shall be assigned to the appropriate division for design, construction, maintenance and operation of the facility. [1973 c.249 §12]

184.619 Rulemaking authority; hearing; exception; orders. (1) In accordance with the applicable provisions of ORS 183.310 to 183.500, the commission shall adopt such rules and orders as it considers necessary and proper in performing the functions vested by law in the commission.

(2) Except as provided by subsection (2) of ORS 183.335, the commission shall cause a public hearing to be held on any proposed rule prior to its adoption. The hearing may be before the commission, any designated member thereof or any person designated by and acting for the commission. [1973 c.249 §11]

184.620 Director of Transportation; confirmation; subordinates. (1) The department shall be under the supervision of a Director of Transportation who shall be appointed by and shall hold office at the pleasure of the commission.

(2) The appointment of the director shall be subject to confirmation by the Senate in the manner provided by ORS 171.560 and 171.570.

(3) The director may appoint:

(a) Deputy directors with full authority to act for the director, but subject to the director's control. The appointment of a deputy director shall be by written order filed with the Secretary of State. A deputy director shall be in the unclassified services for purposes of the State Merit System Law.

(b) Assistant directors as the director determines necessary to carry out the responsibilities of the department. The director may delegate to and assign to an assistant director any powers and responsibilities the director determines to be necessary. Assistant directors are in the unclassified services for purposes of the State Merit System Law.

(c) All subordinate officers and employes of the department and may prescribe their duties, assignments and reassignments and fix their compensation, subject to any applicable provisions of the State Merit System Law. [1969 c.599 §3; 1969 c.599 §3a; 1973 c.249 §16; 1979 c 186 §6]

184.625 Compensation and expenses of director and subordinates. The director and any deputy directors shall receive such salary as may be provided by law or as fixed by the commission. In addition to salaries, the director, deputy directors or assistant directors, subject to the limitations otherwise provided by law, shall be reimbursed for all reasonable expenses necessarily incurred in the performance of official duties. [1969 c.599 §4; 1973 c.249 §17; 1979 c.168 §7]

184.630 Departmental assistance to divisions. (1) Except as otherwise provided by law, the department shall provide a research program for divisions within the department, using the staffs of such divisions for development of solutions to such needs as might arise.

(2) The director may provide administrative facilities and services for the divisions within the department. [1969 c.599 §5; 1973 c.249 §19]

184.633 Duties of director; delegation; bonds for employes. (1) Subject to policy direction by the commission, the director shall:

(a) Be the administrative head of the department;

(b) Have power, within applicable budgetary limitations, and in accordance with ORS chapter 240, to hire, assign, reassign and coordinate personnel of the department and prescribe their duties and fix their compensation, subject to the State Merit System Law;

(c) Administer the laws of the state concerning transportation; and

(d) Intervene, as authorized by the commission, pursuant to the rules of practice and procedure, in the proceedings of state and federal agencies which may substantially affect the interest of the consumers and providers of transportation within Oregon.

(2) In addition to duties otherwise required by law, the director shall prescribe regulations for the government of the department, the conduct of its employes, the assignment and performance of its business and the custody, use and preservation of its records, papers and property in a manner consistent with applicable law.

(3) The director may delegate to any of the employes of the department the exercise or discharge in the director's name of any power, duty or function of whatever character, vested in or imposed by law upon the director. The official act of any such person so acting in the director's name and by his authority shall be considered to be an official act of the director.

(4) The director shall have authority to require a fidelity bond of any officer or employe of the department who has charge of, handles or has access to any state money or property, and who is not otherwise required by law to give a bond. The amounts of the bond shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by him. The department shall pay the premiums on the bonds. [1973 c.249 §18]

184.635 Reports to Governor; delegation of powers. (1) The commission shall develop and report to the Governor on legislative, budgetary and adminstrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to transportation. To accomplish this end, the commission may hold public hearings, consult with and use the services and cooperation of other state and federal agencies, employ consultants and appoint advisory and technical committees to assist in the work.

(2) Whenever a power is granted to the commission the power may be exercised by such officer or employe within the department as is designated in writing by the commission. Any such designation shall be filed in the office of the Secretary of State. [1969 c.599 §6, 1973 c.249 §14]

184.637 Departmental fiscal officer. The director shall designate a fiscal officer for the department who shall:

(1) Provide for sound financial management systems, including all accounting, budgetary and financial control functions for the department.

(2) Perform the financial internal audit of all divisions of the department and reporting discrepancies to the director.

(3) Prepare financial reports as required by statute or as required by the director.

(4) Act in an advisory capacity to the director in all financial matters and perform such other duties and responsibilities with respect to audits, accounting procedures and other like duties and responsibilities as the director considers advisable. [1973 c.249 §20; 1979 c.293 §2]

184.640 Transportation Administration Account; budget and payment for administrative expenses of department. (1) There is established in the General Fund of the State Treasury the Transportation Administration Account.

(2) Notwithstanding any other law, such amounts as may be necessary to pay the administrative expenses of the department shall be continuously credited to the Transportation Administration Account from the biennial appropriations or transferred to such administration account from the accounts or funds, of the divisions and other agencies within the department. Such amounts as may be requested quarterly by the director, with the approval of the Executive Department, shall be so credited or transferred to the Transportation Administration Account. The department is subject to the allotment system provided for in ORS 291.234 to 291.260.

(3) The amounts credited and transferred to the Transportation Administration Account shall not be greater than the total of any budget approved for the department by the Legislative Assembly and shall be determined by prorating the costs of the office of the director among the respective divisions and agencies within the department. All moneys appropriated, credited or transferred to the Transportation Administration Account are appropriated continuously to pay the administrative expenses of the department. [1969 c.599 §7; 1973 c.249 §21]

184.645 Department of Transportation Working Capital Account; data processing equipment and services. (1) There is hereby established an account in the General Fund to be known as the Department of Transportation Working Capital Account, which account is appropriated continuously for, and shall be used for, the purpose of acquiring data processing equipment and services.

(2) The cost to the department of providing data processing services, including labor, facilities, materials, overhead, administrative cost, the lease or purchase cost of the equipment and depreciation, to any state agency, including itself, which is to be charged, in part or whole to the agency or unit served may be advanced out of the Department of Transpor-

tation Working Capital Account. The costs advanced from the account shall be reimbursed to the account from the charges paid to the department by the agency or unit served. [1979 c.380 §§2, 3]

184.647 Transfer of funds to working capital account; retransfer; use of remainder. In order to facilitate financing the costs advanced under subsection (2) of ORS 184.645, the department may at any time during the biennium transfer to the Department of Transportation Working Capital Account such amounts as it considers necessary from funds available to the department for a biennial period. Funds transferred shall be retransferred from the Department of Transportation Working Capital Account by the department to the fund from which the original transfer was made prior to the last day of each biennial period. All or part of the funds remaining in the working capital account at the end of any biennium may remain in the account beyond the end of the biennium for the acquisition of data processing equipment and services. [1979 c.380 §4]

(Public Transit Division)

184.670 Purpose of ORS 184.670, 184.675 and 184.685 to 184.725. It is the purpose of ORS 184.615, 184.685 to 184.725 and this section:

(1) To provide a means of state financial assistance and coordination to meet the state's most pressing mobility needs and to make transportation an effective and responsive force in achieving goals for social, economic and environmental development, and conservation of critical resources.

(2) To foster the development of an integrated transportation system in which each component or mode, such as air, bus, rail or para-transit is encouraged to perform in a coordinated and complementary manner with other components or modes, and in balance with the public need and economic and social constraints.

(3) To encourage more effective participation by the private sector in providing coordinated public transportation.

(4) To provide for optimum and broader uses of federal funds as they become available.

(5) To promote the continuation and development of privately owned intercity common carriers of passengers. [1977 c 230 §1]

184.675 Definitions for ORS 184.670 to 184.725. As used in ORS 184.670 to 184.725, unless the context requires otherwise:

(1) "Commission" means the Oregon Transportation Commission.

(2) "Director" means Director of Transportation.

(3) "Public Transit Division" or "division" means the Public Transit Division of the Department of Transportation.

(4) "Department" means the Department of Transportation.

(5) "Commissioner" means the Public Utility Commissioner of Oregon.

(6) "Operating agreement" means an agreement for the operation or maintenance on behalf of the department of all or part of a public transportation system, but does not include agreements by which the department provides only financial or technical assistance or transportation facilities or equipment and which do not control routes, rates or levels of service, or agreements under which such control is exercised by the Federal Government through the department.

(7) "Public transportation system" means any form of passenger transportation system, whether or not for hire, including but not limited to air, rail, other fixed guideway, bus, jitney, taxi and dial-a-ride passenger transportation systems within, between and outside of urban and urbanized areas, and including related passenger terminal facilities and motor vehicle parking facilities.

(8) "Person" means the United States or any state or any department or agency of any of the above, or any nonprofit corporation or entity or any other individual, corporation or entity, either public or private. [1969 c.599 §50; 1973 c.249 §23, 1977 c.230 §2]

184.680 Public Transit Division. Subject to subsection (2) of ORS 184.615, the Public Transit Division is continued within the Department of Transportation. The division shall be under the supervision and control of an administrator appointed by the director with the approval of the commission. [1969 c.599 §§51, 53, subsection (3) enacted by 1969 c 599 §53a; 1973 c.249 §24]

184.685 Purpose of department. The department may conduct state-wide coordinating, financing, planning, research and development of public transportation systems in this state to insure the most orderly, efficient and economical development of such systems. [1969 c.599 §57; 1973 c 249 §25, 1977 c.230 §7]

184.689 Powers and duties of department. In order to carry out the purposes set forth in ORS 184.685, the department may:

(1) Sue and be sued;

(2) Acquire by purchase, lease, devise, gift or voluntary grant real and personal property or any interest therein, including access rights, and take, hold, possess and dispose of any such property or interest;

(3) Conduct or carry out, subject to any other provision of law, field research, planning, financing, design, construction, acquisition, lease, preservation, or improvement of any public transportation system or any portion thereof, or provide for such activity by entering into agreements with any person or persons principally responsible for the operations of such public transportation system and possessing authority to enter into such agreement;

(4) Enter into any other necessary agreements; employ agents, engineers, consultants and other persons as necessary and fix their compensation;

(5) Construct, acquire, plan, design, maintain and operate passenger terminal facilities and motor vehicle parking facilities in connection with any public transportation system;

(6) Advise and assist in the formulation of overall public transportation policies and plans;

(7) Make necessary studies and render technical assistance to local governments;

(8) Participate in regulatory proceedings affecting public transportation;

(9) Assist local government, private and nonprofit operators of passenger transportation systems in the planning, experimentation, financing, design, construction, acquisition, lease, preservation, improvement, operation and maintenance of public transportation systems. The assistance may include loans, grants, or the provision of equipment or facilities or any rights therein by sale, lease or grant, or special grants to the users of said systems;

(10) Subject to the provisions of ORS 184.705, enter into operating agreements with any person;

(11) Receive and disburse funds from or to any person under contractual terms or according to other authorized state or federal procedures. When more than one carrier provides similar services in the same or related areas or corridors pursuant to a certificate of public convenience and necessity, the department may select a provider of service on the basis of written proposals evaluated under criteria established by the commission;

(12) Perform any necessary planning, administration, review or other functions required to be performed by the state or any agency thereof in connection with the allocation and distribution to any person of federal funds pursuant to the Urban Mass Transportation Act of 1964, as amended, or any other federal funding program for public transportation systems; and

(13) Negotiate with existing passenger carriers to preserve or coordinate transportation schedules to upgrade the existing system of intercity transportation. [1977 c.230 §9 (enacted in lieu of 184 700)]

184.690 [1969 c.599 §§54, 55; repealed by 1973 c.249 §91]

184.691 Public Transit Division Account; use of moneys. The Public Transit Division Account is established in the General Fund of the State Treasury. Except as otherwise provided by law, all moneys received by the division, from whatever source, shall be paid into the State Treasury and credited to the account. All moneys in the account are appropriated continuously to the division and shall be used by the division for the purposes authorized by law. [1975 c 522 §6; 1977 c.230 §5]

184.695 [1969 c 599 §56; repealed by 1973 c.249 §91]

184.700 [1971 c.559 §2; 1973 c.249 §26; repealed by 1977 c.230 §8 (184 689 enacted in lieu of 184.700)]

184.705 Operating agreements. (1) The department, in a manner determined by the commission, may enter into operating agreements with any person. The agreements may include, but are not limited to, provisions with respect to:

(a) Services to be rendered;

(b) Routes to be served;

(c) Schedules to be provided;

(d) Compensation to be paid;

(e) Equipment to be used;

(f) Points to be served;

(g) Terminals to be used;

(h) Qualifications of operating employes;

(i) Accounting and reporting procedures; and

(j) Termination dates.

(2) To the extent practicable the department shall enter into operating agreements with carriers authorized by the commissioner to perform passenger transportation services pursuant to ORS chapter 760, 767 or 773.

(3) Operating agreements, as defined in subsection (6) of ORS 184.675, as well as agreements providing for financial assistance or provision of transportation facilities or equipment or proposals by which the Federal Government would itself or through the department exercise control of intrastate routes, rates or levels of service, entered into by the department with persons providing public transportation services under an authorized certificate of public convenience and necessity issued by the commissioner, shall be submitted to the commissioner for approval. The commissioner shall have 120 days from the date of receipt of the agreement to approve or disapprove the agreement. Notice shall be made and a hearing shall be held pursuant to the provisions of ORS chapter 767 to determine whether the execution of the agreement will result in a diminution in the total quantity and quality of passenger transportation service available to the public or impairment of the ability of existing certificated carriers to adequately serve the public. These shall be the sole criteria for approval or disapproval of the agreement.

(4) In connection with the institution of an operating agreement or other agreement to provide a transportation service for which no carrier presently holds a certificate of public convenience and necessity, the department shall select a provider of service on the basis of written proposals, giving preference to existing private carriers who presently provide transportation service in the general area for which the agreement will apply, as provided in paragraph (a) of subsection (1) of this section. The department shall then notify the commissioner of such agreement prior to the institution of such service. The notice shall contain the terms of the agreement and the commissioner shall thereupon issue a permit for the operations described in the agreement. Such a permit shall be restricted to the terms of the agreement and shall automatically be revoked upon termination of the operating agreement. Operating agreements with persons not certificated by the commissioner which result in a new service shall be submitted to the commissioner for approval in the same manner and subject to same conditions as set forth in subsection (3) of this section. Operations conducted pursuant to a temporary operating arrangement may be considered by the commissioner in determining public convenience and necessity on subsequent application for permanent authority under ORS chapter 767 or 773, but shall not be given greater weight than the service criteria provided in subsection (3) of this section as this relates to existing certificated carriers.

(5) Persons or vehicles operating under a permit issued pursuant to subsection (4) of this section are exempt from ORS chapters 760, 761, 763, 764, 767 and 773 except for ORS 767.005 to 767.640 as such sections relate specifically to public or employe safety, insurance and bonding and except for ORS 767.700 to 767.905 as such sections may be applicable to persons or vehicles.

(6) Operating agreements with persons otherwise subject to the commissioner's jurisdiction shall include a provision that the revenues and expenses of the person operating under a permit issued pursuant to subsection (4) of this section shall be separated from the revenues and expenses properly attributable to other intrastate operations of such person.

(7) Except as provided in ORS 184.675 to 184.691, persons providing public transportation services otherwise subject to the commissioner's jurisdiction shall remain subject to his jurisdiction, notwithstanding assistance or approval of the department. ORS 184.610 to 184.691 is not intended to extend the jurisdiction of the commissioner beyond that otherwise granted. [1977 c.230 §13]

184.710 When operating agreements prohibited. The department shall not enter into operating agreements with any person for service in competition with service being provided by a mass transit district or transportation district formed under ORS chapter 267 without the consent of such district. [1977 c.230 §15]

184.715 Delegation to divisions in department. At the discretion of the director, any of the activities carried out by the depart-

ment pursuant to ORS 184.670, 184.675 and 184.685 to 184.725 shall be performed all or in part by any division of the department. [1977 c.230 §14]

184.720 Criteria and standards for evaluation of projects. For the purpose of aiding the development of public transportation systems, the department shall establish criteria and standards for the evaluation of transportation projects considered for assistance under ORS 184.670, 184.675 and 184.685 to 184.725. [1977 c.230 §11]

184.725 Rulemaking. The department shall adopt such rules as are necessary to carry out the provisions of ORS 184.670, 184.675 and 184.685 to 184.725. [1977 c.230 §12]

DEPARTMENT OF HUMAN RESOURCES
(Generally)

184.750 Department of Human Resources; functions; recipient of federal funds. (1) The Department of Human Resources is created.

(2) The Department of Human Resources shall provide programs for the delivery to the public of services relating to public assistance, children and families, health and health-related affairs, mental health, corrections, employment, vocational rehabilitation, aging, and such other services as may be assigned to the Department of Human Resources.

(3) The Department of Human Resources shall provide the programs and services enumerated in subsection (2) of this section through the divisions and other organizational units, including but not limited to the following:

(a) The Adult and Family Services Division;

(b) The Children's Services Division;

(c) The Mental Health Division;

(d) The Corrections Division;

(e) The Employment Division;

(f) The Vocational Rehabilitation Division;

(g) The Health Division; and

(h) The Office of Elderly Affairs.

(4) The Department of Human Resources shall be the recipient of all federal funds paid or to be paid to the state to enable the state to provide the programs and services assigned to the Department of Human Resources. [1971 c.319 §1; 1977 c.267 §1; 1977 c.661 §3]

184.755 Director; appointment; term; confirmation; salary and expenses. (1) The Department of Human Resources shall be under the supervision and control of a director who is responsible for providing for programs for the delivery to the public of the services assigned to the department by ORS 184.750 or otherwise, and for undertaking long-range planning necessary for the effective and efficient delivery of these services.

(2) The Governor shall appoint the director for a term of four years, but he may be removed at any time during such term at the pleasure of the Governor. The appointment of the director is subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(3) The director shall receive such salary as may be provided by law or, if not so provided, as may be fixed by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred by him in the performance of his official duties. [1971 c 319 §2; 1977 c.267 §2]

184.760 Deputy director; assistant directors; other employes. (1) The director may appoint a deputy director, whose appointment is subject to approval by the Governor and who shall serve at the pleasure of the director. The deputy director shall have full authority to act for the director, subject to directions of the director. The appointment of the deputy director shall be by written order, filed with the Secretary of State.

(2) Each division within the Department of Human Resources shall be under the supervision of an assistant director appointed by the director, whose appointment is subject to approval by the Governor and who shall serve at the pleasure of the director.

(3) Except as provided in subsection (1) of this section and subject to any applicable provisions of the State Merit System Law, the director may appoint employes within the office of the director of the department, prescribe their functions and fix their compensation.

(4) In addition to the assistant directors specified in subsection (2) of this section, the director may appoint one assistant director to carry out such other responsibilities as the director may assign. [1971 c.319 §3; 1977 c 267 §8]

184.765 Assistant directors in unclassified service; other employes; salary; expenses. Assistant directors appointed under ORS 184.760 shall be in the unclassified service of the state and shall receive such salaries as may be provided by law. With the approval of the director, each assistant director supervising a division may appoint one deputy and one secretary who shall be in the unclassified service and receive such salaries as may be provided by law. In addition to their salaries, they shall, subject to the limitations otherwise provided by law, be reimbursed for all expenses actually and necessarily incurred in the performance of official duties. [Formerly 176.630; 1977 c.267 §10]

184.767 Assistant director as appointing authority; assignment of employes by director. (1) For purposes of the State Merit System Law, each assistant director appointed under ORS 184.760, and any other officer specifically designated by law, is considered to be the appointing authority with respect to officers and employes under his supervision, and ORS 240.400 applies to each such appointing authority.

(2) Notwithstanding ORS 240.535 and 240.540 and subsection (1) of this section, the director at any time may assign an employe from one position to another position in the same class or rank within the department or between its divisions. Upon making such an assignment or transfer, the director forthwith shall give written notice of his action to the Administrator of the Personnel Division. ORS 240.400 applies to the power vested in the director under this subsection. [1977 c.267 §9]

Note: The amendment to 184.767 by section 28, chapter 468, Oregon Laws 1979, becomes operative July 1, 1981. See section 38, chapter 468, Oregon Laws 1979. 184 767 as amended is set forth for the users' convenience

184.767 (1) For purposes of the State Personnel Relations Law, each assistant director appointed under ORS 184 760, and any other officer specifically designated by law, is considered to be the appointing authority with respect to officers and employes under the supervision of the assistant director or other officer, and ORS 240.400 applies to each such appointing authority.

(2) Notwithstanding subsection (1) of this section, the director at any time may assign an employe from one position to another position in the same class or rank within the department or between its divisions Upon making such an assignment or transfer, the director forthwith shall give written notice of the action to the Administrator of the Personnel Division. ORS 240.400 applies to the power vested in the director under this subsection.

184.770 Authority of director; legislative approval required for certain actions by director. (1) The Director of Human Resources, consistent with any federal requirements and with the prior consent of the Governor:

(a) May cause the programs, divisions, other organizational units and offices within the department to make joint use of the personnel, resources, information and facilities available within the department.

(b) May combine or transfer components of existing programs, divisions, other organizational units and offices within the department.

(2) Where the action taken under subsection (1) of this section requires any transfer between appropriations or expenditure limitations or between the budgets of programs, divisions, other organizational units and offices within the department, established by legislative action, the transfer first must be approved by the Legislative Assembly or, if it is not in session, the Emergency Board.

(3) Any organizational changes within the department that are not described in subsection (1) of this section shall be made only after approval thereof by joint resolution of the Legislative Assembly. [1971 c 319 §5; 1977 c.267 §12]

184.773 Delegation of authority of director. (1) The Director of Human Resources may delegate to any of the officers and employes of the department the exercise or discharge in the director's name of any power, duty or function of whatever character vested in or imposed upon the director by law. However, all such delegations of a continuing nature involving provision for services performed by the department may be exercised by an officer or employe of the department only when specifically designated in writing by the director to do so.

(2) The official act of any person acting in the director's name and by his authority pursuant to subsection (1) of this section shall be considered an official act of the director. [1977 c.267 §7]

184.775 Information from personnel within department. (1) The Director of Human Resources shall require from the personnel within the department such information, reports and documentation, as he, in his discretion, determines will be necessary to enable him to:

(a) Execute his responsibilities pursuant to law.

(b) Develop and report to the Governor from time to time on legislative, budgetary and administrative programs to accomplish comprehensive, long-range, coordinated planning and policy formulation in the matters of public interest related to the department.

(c) File with the Executive Department, for purposes of ORS 291.208, a budget report for each program, division, other organizational unit or office within the department.

(2) Where such information, reports or documentation is confidential in the hands of departmental personnel, it shall be confidential in the hands of the director. [1971 c.319 §6; 1977 c 267 §13]

Note: The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "this Act" in 184 775 Chapter 319, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located following the Index in volume 6 of Oregon Revised Statutes (1971 Replacement Parts).

184.780 Federal law supersedes state law. (1) To the extent that there is any conflict between chapter 319, Oregon Laws 1971, and any federal law referred to or to be administered under chapter 319, Oregon Laws 1971, the federal law in effect on June 8, 1971, is controlling.

(2) In all cases where federally granted funds are involved, the federal laws, rules and regulations applicable thereto shall govern notwithstanding any provision to the contrary in ORS 184.750 to 184.775, 184.795, 184.800, 184.830, 411.060, 431.045 and this subsection. [1971 c 319 §9; subsection (2) enacted as 1977 c.267 §22]

Note: See note under 184.775.

184.785 Authority of department for performance of support services. (1) The Department of Human Resources may enter into agreements with district attorneys or the Support Enforcement Division for performance of support enforcement services pursuant to federal laws or regulations.

(2) The Department of Human Resources may, if required by federal law or regulation relating to child support programs:

(a) Enter into agreements with the Support Enforcement Division or a district attorney for providing child support services;

(b) Promulgate rules for operation of child support programs under ORS 23.789; or

(c) Provide other services not specified by chapter 458, Oregon Laws 1975. [1975 c.458 §§7, 16]

Note: The Legislative Counsel has not, pursuant to 173.160, undertaken to substitute specific ORS references for the words "this Act" in 184.785. Chapter 458, Oregon Laws 1975, enacted into law and amended ORS sections which may be found by referring to the 1975 Comparative Section Table located in volume 6A of Oregon Revised Statutes (1975 Replacement Parts).

184.787 Rulemaking. (1) Pursuant to ORS 183.310 to 183.500, the director may adopt such administrative rules as he considers necessary to carry out the functions of the department.

(2) Notwithstanding any other provision of law, the director by order may delegate his authority under subsection (1) of this section to such extent as he considers proper to assistant directors of the department. [1977 c.267 §4]

184.790 [1975 c.768 §§1, 2; 1977 c.661 §4; renumbered 184.865]

184.795 Department of Human Resources Account. (1) There is established in the General Fund of the State Treasury an account to be known as the Department of Human Resources Account. All moneys in this account are appropriated for and shall be used by the department for the respective purposes authorized by law. The moneys in the account and all appropriations for the account are subject to allotment control by the Executive Department.

(2) The Department of Human Resources shall keep a record of all moneys credited to and deposited in the account. The records shall indicate by separate cumulative accounts the source from which the moneys were derived and the individual activity or program against which each withdrawal is charged.

(3) The unobligated balance in the account on June 30 of each odd-numbered year shall be determined by the department as of September 30 next following, and certified to the Executive Department. Unless otherwise provided by law or action of the Emergency Board, the amount certified pursuant to this subsection shall revert to the General Fund and become available for general governmental purposes. [1977 c.267 §14]

184.800 Department of Human Resources Special Checking Account. (1) There is established a Department of Human Resources Special Checking Account in the

State Treasury. Upon the written request of the Director of Human Resources, the Executive Department shall draw warrants in favor of the Department of Human Resources to be charged against appropriations and other moneys available to the Department of Human Resources in the same manner as other claims against the state, as provided in ORS chapter 293. All such warrants shall be deposited in the special checking account and may be disbursed by check.

(2) The special checking account may be used for the purpose of paying the administrative expenses of programs and services as assigned to the Department of Human Resources by law, including the payment of expenses to be reimbursed by the Federal Government. [1977 c.267 §15]

(Children's Services Division)

184.805 Children's Services Division; functions. The Children's Services Division is created in the Department of Human Resources. The division shall administer laws and programs relating to protective services to children, foster care, adoptions, Interstate Compact on Juveniles, restorative services to families with children, licensing of child care facilities and day care centers, the mental health program for children, youth employment programs and services to families and children in compliance with the federal social security laws. [1971 c.401 §1; 1973 c 641 §1]

184.810 Revolving fund. (1) On written request of the Children's Services Division, the Executive Department shall draw warrants on amounts appropriated to the Children's Services Division for operating expenses for use by the division as a revolving fund. The revolving fund shall not exceed the aggregate sum of $25,000 including unreimbursed advances. The revolving fund shall be deposited with the State Treasurer to be held in a special account against which the division may draw checks.

(2) The revolving fund may be used by the division to pay for travel expenses for employes of the division and for any consultants or advisers for whom payment of travel expenses is authorized by law, or advances therefor, or for purchases required from time to time or for receipt or disbursement of federal funds available under federal law.

(3) All claims for reimbursement of amounts paid from the revolving fund shall be approved by the division and by the Executive Department. When such claims have been approved, a warrant covering them shall be drawn in favor of the division and charged against the appropriate fund or account, and shall be used to reimburse the revolving fund. [1971 c.774 §15]

184.815 Children's Services Account. (1) There hereby is established in the General Fund of the State Treasury an account to be known as the Children's Services Account. All moneys in the Children's Services Account hereby are appropriated for and shall be used by the Children's Services Division for the respective purposes authorized by law. The moneys in the Children's Services Account and all appropriations for the Children's Services Division shall be subject to allotment made by the Executive Department.

(2) The Children's Services Division shall keep a record of all moneys credited to and deposited in the Children's Services Account. The record shall indicate by separate cumulative accounts the source from which the moneys are derived and the individual activity or program against which each withdrawal is charged.

(3) The unobligated balance in the Children's Services Account on June 30 of each odd numbered year shall be determined by the Children's Services Division as of September 30 following the close of each biennium and certified to the Executive Department. The amount certified pursuant to this subsection shall revert to the General Fund and become available for general governmental purposes. [1971 c.774 §14]

(Health Division)

184.830 Health Division; functions. (1) The Health Division is created in the Department of Human Resources. The Health Division shall be responsible for the administration of health and health-related affairs in this state as provided by law, including but not limited to public health services, migrant health services, licensing of health facilities, and coordinating the activities of professional and occupational licensing boards.

(2) The Health Division shall provide necessary staff assistance and services to, and shall have full authority and responsibility for, all administrative matters in connection with the functioning of the division.

(3) It is the intention of the Legislative Assembly to provide for the more effective coordination of the administrative functions of boards charged with responsibility for protecting the public through the licensing and regulating of health-related professions practiced in this state. Further, it is the intention of the Legislative Assembly to retain responsibility and authority in the professional licensing boards, members of which are qualified by education, training and experience to make the necessary judgments, for decisions on qualifications, standards of practice, licensing, enforcement, discipline and other discretionary functions relating to professional activities. The professional licensing boards shall have authority to employ such personnel as they consider necessary to carry out their respective functions and shall maintain full budgetary control over the boards' expenditures and their recommendations for legislation including but not limited to appropriations. Expenditures are subject to the allotment system under ORS 291.232 to 291.260 and rules adopted thereunder. Budgets shall be prepared pursuant to ORS 291.202 to 291.226 and rules adopted thereunder. [1971 c.650 §1; 1975 c 730 §1; 1977 c.267 §16]

Note: The Legislative Counsel has not, pursuant to 173 160, undertaken to substitute specific ORS references for the words "this Act" in 184.830. Chapter 650, Oregon Laws 1971, enacted into law and amended ORS sections which may be found by referring to the 1971 Comparative Section Table located following the Index in volume 6 of Oregon Revised Statutes (1971 Replacement Parts)

184.835 Assistant director as ex officio member of certain boards. The Assistant Director for Health, or his designee, shall serve as an ex officio member of all health-related licensing boards, but without the right to vote. However, nothing in this section is intended to authorize the assistant director to intervene in the internal functions and administration of the boards. [1971 c 650 §3; 1975 c 730 §2]

184.840 Functions of assistant director. The Assistant Director for Health shall:

(1) Require each licensing board in the Health Division to maintain a register of the names and current addresses of all persons holding valid licenses, certificates of registration or other evidence of authority required to practice the occupation or profession, or operate the facility within the jurisdiction of such board and periodically, as the assistant director may require, to file a copy of the register at the office of the division. Any board that is authorized or required to distribute a register described in this section may collect a fee to cover the costs of publication, such fee to be handled as other receipts of the board are handled.

(2) In consultation with the licensing boards, designate a qualified person in the Health Division as coordinator for the accounting and other processes of the licensing boards who shall be responsible for providing such services as the licensing boards may request. [1971 c.650 §4, 1975 c.730 §3]

(Elderly Affairs)

184.860 Definitions for ORS 184.750, 184.760, 184.865 and 184.900. As used in ORS 184.750, 184.865, 184.900 and this section, unless the context requires otherwise:

(1) "Administrator" means the Administrator of the Office of Elderly Affairs.

(2) "Assistant administrator" means the assistant administrator of the Office of Elderly Affairs.

(3) "Commission" means the Governor's Commission on Aging.

(4) "Office" means the Office of Elderly Affairs in the Department of Human Resources. [1977 c 661 §1]

184.865 Authority of department to provide social services for elderly; Office of Elderly Affairs; functions; rules; personnel. (1) The Department of Human Resources is directed to develop and place in effect a program of supportive social services for persons age 60 or older.

(2) The Department of Human Resources is authorized to develop and adopt such rules as necessary for the sound, efficient and economical administration of the provisions of this section and ORS 184.900 to 184.910, including the implementation of a fee for service schedule based upon ability to pay, and to assure that no eligible person, resident in a skilled nursing home or intermediate care facility, shall be removed and placed in an alternative care program unless such services are determined to be more appropriate for the individual citizen based upon appropriate, individual, service considerations.

(3) There is hereby created an Office of Elderly Affairs in the Department of Human

Resources. The office shall have responsibility for all programs and functions heretofore performed by the State Program on Aging and the Office of Special Assistant for Programs for the Elderly, and for such other functions as shall be assigned to it by the Legislative Assembly, the Governor or the Director of the Department of Human Resources.

(4) In accordance with any applicable provisions of ORS 183.310 to 183.500, the office may make such rules as are necessary to carry out the provisions of ORS 184.750, 184.760, 184.900 and this section.

(5) The office shall be staffed by one administrator and one assistant administrator, both of whom shall be in the unclassified service, and by such other personnel as may be necessary. The Director of the Department of Human Resources shall appoint the administrator and the assistant administrator. [Formerly 184.790]

(Domiciliary Care)

184.870 Definitions for ORS 184.875 and 184.880. As used in ORS 184.875 and 184.880, "domiciliary care facilities" means facilities providing residential care to adults, including adult foster care homes, group care facilities or residential treatment, training or care facilities, established, contracted for or operated by any division of the Department of Human Resources except the Corrections Division. [1977 c.779 §3]

184.875 Policy. (1) The Legislative Assembly recognizes the importance of providing a high quality of domiciliary care facilities throughout the State of Oregon.

(2) It is the intent of ORS 184.870 to 184.880 to distribute domiciliary care facility capacity on the basis of population and the regional origin of institutionalized persons. [1977 c 779 §1]

184.880 Location and capacity of domiciliary care facilities. (1) Except as otherwise provided by subsections (3) and (4) of this section, the capacity of all domiciliary care facilities must be located throughout the state based on the relationship of (a) the population of the county in which the additional capacity is proposed to be located to (b) the number of persons originating from the county determined to be in need of domiciliary care by the Department of Human Resources. However, nothing in this subsection is intended to prevent the placement of a person who is or was not a resident of the county in a domiciliary care facility in the county.

(2) Where a county is too sparsely populated to produce a meaningful ratio of county population to population in need, or a county is lacking necessary support services, the population of two or more counties may be combined. The area of the combined counties may be considered a county for purposes of subsection (1) of this section.

(3) The computation required by subsection (1) of this section shall not require reduction in any domiciliary care facility capacity existing on October 4, 1977.

(4) Subject to the appropriate licensing requirements, the governing body of a county may authorize a domiciliary care facility located in the county to exceed the capacity limit imposed by subsection (1) of this section upon:

(a) Request of an individual or organization operating or proposing to operate a domiciliary care facility;

(b) Consultation with an advisory committee appointed by the governing body and consisting of persons who are particularly interested in the type of domiciliary care facility contemplated; and

(c) Finding of good cause following notice and public hearing. [1977 c.779 §2; 1979 c.235 §1]

(Family Violence)

184.885 Definitions for ORS 184.885 and 184.890. As used in ORS 184.890 and this section unless the context requires otherwise:

(1) "Director" means the Director of Human Resources.

(2) "Family violence" means the physical injury, sexual abuse or forced imprisonment of a person by another who is related by blood, marriage or intimate cohabitation at the present or has been related at some time in the past, to the extent that the person's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the director. [1977 c.846 §1]

184.890 Grants and contracts for family violence prevention, identification and treatment projects. The director may make grants to and enter into contracts with nonprofit private organizations or public agencies for programs and projects designed to

prevent, identify and treat family violence. Grants or contracts under this section may be:

(1) For the funding of shelter homes for spouses and children who are or have experienced family violence including acquisition and maintenance of shelter homes;

(2) For the development of self-help programs and projects including telephone information services, counseling groups and resource centers, and for the prevention and treatment of alcohol and drug-related family violence; and

(3) For the development and establishment of programs for professional and paraprofessional personnel in the fields of social work, law enforcement, education, law, medicine and other relevant fields who are engaged in the field of the prevention, identification and treatment of family violence and training programs in methods of preventing family violence.

(4) Notwithstanding the provisions of ORS 192.001 to 192.500 and 192.610 to 192.990, the director may by rule provide that the locations of premises utilized for shelter homes or other physical facilities in family violence programs and projects shall be kept confidential. [1977 c 846 §2]

GOVERNOR'S COMMISSION ON AGING

184.900 Creation; membership; functions; compensation and expenses. (1) The Governor's Commission on Aging is created. The commission shall consist of at least 19 members appointed by the Governor for terms of three years. Prior to making appointments, the Governor shall request and consider recommendations from the area agencies on aging and other interested senior organizations. The Governor shall designate a member to serve at his pleasure as chairman for a term of two years with such duties as he shall prescribe. 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 the elderly, including citizens who have been active in senior organizations and advocates on behalf of senior citizens. Of the members appointed to the commission under this subsection, a majority shall be actual consumers of services under the aging programs, including low income and minority older persons at least in proportion to the number of minority and older persons in the state.

(2) In addition to the members of the commission appointed under subsection (1) of this section, the President of the Senate shall appoint one member from the Senate and the Speaker of the House of Representatives shall appoint one member from the House of Representatives. The members of the commission appointed under this subsection shall be entitled to actual and necessary expenses.

(3) The Governor's Commission on Aging shall advise the Governor and the Director of the Department of Human Resources on needs of the elderly and recommend actions by the Governor, the Department of Human Resources, other governmental entities and the private sector, appropriate to meet such needs.

(4) The commission shall have authority to study programs and budgets of all state agencies which affect senior citizens. After such study, the commission shall make recommendations to the Governor and to the agencies involved. Such recommendations shall be designed to provide coordination of programs for the elderly, to avoid unnecessary duplication in provision of services, and to point out gaps in provision of services. The commission shall also recommend development of a comprehensive plan for delivery of services to the elderly. In carrying out these tasks, the commission shall coordinate its efforts with other advisory groups within the Department of Human Resources to avoid duplication of effort.

(5) The commission shall promote responsible state-wide advocacy for senior citizens.

(6) Members of the commission, other than legislators, shall be entitled to compensation and expenses as provided in ORS 292.495. [1975 c 768 §3; 1977 c.661 §2]

184.905 Legislative committee members; expenses. (1) In addition to the members of the committee appointed under ORS 184.900, the President of the Senate shall appoint one member from the Senate and the Speaker of the House of Representatives shall appoint one member from the House of Representatives. If the Speaker of the House of Representatives or the President of the Senate is a member, either may designate from time to time an alternate from among the members of his house to exercise his powers as a member of the committee except that the alternate

shall not preside if the Speaker or President is chairperson.

(2) The members of the committee appointed under subsection (1) of this section shall be entitled to actual and necessary expenses. [1975 c.768 §4; 1977 c.891 §7]

184.910 Appointments to fill vacancies. In case of a vacancy on the committee, the appointing authority shall appoint a successor for the remainder of the unexpired term. [1975 c 768 §5]

184.915 [1975 c.768 §§6, 7; repealed by 1977 c.661 §5]

MISCELLANEOUS

184.940 Commission for Women Account. (1) There is created a Commission for Women Account in the General Fund of the State Treasury. All moneys in the account are continuously appropriated for and shall be used by the Commission for Women, created by Executive Order 75-9, to carry out its purposes.

(2) All gifts and grants received by the commission or by the state for purposes of the commission shall be deposited in the account. [1977 c.81 §5]

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, 1979.

Thomas G. Clifford
Legislative Counsel

CHAPTER 185
[Reserved for expansion]