

Chapter 244

1991 EDITION

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PUBLIC OFFICERS AND EMPLOYEES

GENERALLY

244.010 Policy. (1) The Legislative Assembly hereby declares that a public office is a public trust, and that as one safeguard for that trust, the people require all public officials to adhere to the code of ethics set forth in ORS 244.040.

(2) The Legislative Assembly recognizes that it is the policy of the state to have serving on many state and local boards and commissions state and local officials who may have potentially conflicting public responsibilities by virtue of their positions as public officials and also as members of the boards and commissions, and declares it to be the policy of the state that the holding of such offices does not constitute the holding of incompatible offices unless expressly stated in the enabling legislation.

(3) Nothing in this chapter is intended to affect:

(a) Any other statute requiring disclosure of economic interest by any public official or public employee.

(b) Any statute prohibiting or authorizing specific conduct on the part of any public official or public employee. [1974 s.s. c.72 §§1, 1a; 1987 c.566 §7]

244.020 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain including income-producing not-for-profit corporations.

(2) "Business with which the person is associated" means any business of which the person or a member of the person's household is a director, officer, owner or employee, or agent or any corporation in which the person or a member of the person's household owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year.

(3) "Commission" means the Oregon Government Ethics Commission.

(4) "Contribution" has the meaning given that term in ORS 260.005.

(5) "Development commission" means any entity which has the authority to purchase, develop, improve or lease land or the authority to operate or direct the use of land. This authority must be more than ministerial.

(6) "Expenditure" has the meaning given that term in ORS 260.005.

(7) "Political committee" has the meaning given that term in ORS 260.005.

(8) "Potential conflict of interest" means any action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit or detriment of the person or a member of the person's household, or a business with which the person or a member of the person's household is associated, unless the pecuniary benefit or detriment arises out of the following:

(a) An interest or membership in a particular business, industry, occupation or other class required by law as a prerequisite to the holding by the person of the office or position.

(b) Any action in the person's official capacity which would affect to the same degree a class consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or other group including one of which or in which the person, or a member of the person's household or business with which the person is associated, is a member or is engaged. The commission may by rule limit the minimum size of or otherwise establish criteria for or identify the smaller classes that qualify under this exception.

(c) Membership in or membership on the board of directors of a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code.

(9) "Gift" means something of economic value given to a public official or member of the official's household without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not public officials on the same terms and conditions; and something of economic value given to a public official or member of the official's household for valuable consideration less than that required from others who are not public officials. However, "gift" does not mean:

(a) Campaign contributions, as described in ORS chapter 260.

(b) Gifts from relatives.

(c) The giving or receiving of food, lodging and travel when participating in an event which bears a relationship to the public official's office and when appearing in an official capacity, subject to the reporting requirement of ORS 244.060 (6).

(10) "Honoraria" means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event at which

the public official appears in an official capacity.

(11) "Income" means income of any nature derived from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, honoraria, return of capital, forgiveness of indebtedness, or anything of economic value.

(12) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in one or more bills, resolutions, regulations, proposals or other matters subject to the action or vote of a person acting in the capacity of a public official.

(13) "Legislative official" means any member or member-elect of the Legislative Assembly, any member of an agency, board or committee that is part of the legislative branch and any staff person, assistant or employee thereof.

(14) "Member of household" means the spouse of the public official and any children of either who reside with the public official.

(15) "Planning commission" means a county planning commission created under ORS chapter 215 or a city planning commission created under ORS chapter 227.

(16) "Public official" means any person who is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

(17) "Statewide official" means the Secretary of State or Secretary of State-elect, State Treasurer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent of Public Instruction-elect, Attorney General or Attorney General-elect and the Commissioner of the Bureau of Labor and Industries or the Commissioner of the Bureau of Labor and Industries-elect.

(18) "Zoning commission" means an entity to which is delegated at least some of the discretionary authority of a planning commission or governing body relating to zoning and land use matters. [1974 s.s. c.72 §2; 1975 c.543 §1; 1977 c.588 §2; 1979 c.666 §5; 1987 c.566 §8; 1989 c.340 §2; 1991 c.73 §1; 1991 c.770 §5]

244.030 Application. Nothing in this chapter is intended to affect:

(1) Any other statute requiring disclosure of economic interest by any public official or public employee.

(2) Any statute prohibiting or authorizing specific conduct on the part of any public official or public employee. [1974 s.s. c.72 §24]

244.040 Code of Ethics. The following actions are prohibited regardless of whether

potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

(1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official or a member of the household of the public official is associated.

(2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(3) No legislative official, statewide official or candidate therefor shall receive or solicit a campaign contribution to the official or candidate or the official's or candidate's principal campaign committee or solicit a campaign expenditure in support of the official or candidate, from any person or political committee during the period beginning January 1st immediately preceding a regular biennial session of the Legislative Assembly and ending upon adjournment of the regular biennial session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(4) The Governor, Governor-elect or a candidate for Governor shall not receive or solicit a campaign contribution to the Governor or candidate for Governor or the Governor's or candidate's principal campaign committee or solicit a campaign expenditure in support of the Governor or candidate for Governor, from any person or political committee during the period beginning January 1st immediately preceding a regular biennial session of the Legislative Assembly and ending 30 days following adjournment of the regular biennial session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(5) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.

(6) No public official shall further the personal gain of the public official through

the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

(7) No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.

(8) No person or political committee during the period beginning January 1st immediately preceding a regular biennial session of the Legislative Assembly and ending upon adjournment of the regular biennial session of the Legislative Assembly, or during any special session of the Legislative Assembly, shall make or promise to make a campaign contribution to a legislative official, statewide official or candidate therefor or to the official's or candidate's principal campaign committee, or promise to make a campaign expenditure in support of the official or candidate.

(9) No person or political committee during the period beginning January 1st immediately preceding a regular biennial session of the Legislative Assembly and ending 30 days following adjournment of the regular biennial session of the Legislative Assembly, or during any special session of the Legislative Assembly, shall make or promise to make a campaign contribution to the Governor, Governor-elect or candidate for Governor, or to the Governor's or candidate's principal campaign committee, or promise to make a campaign expenditure in support of the Governor or candidate for Governor.

(10) No person or political committee affiliated with a political party, caucus of either house of the Legislative Assembly, legislative official, statewide official or the Governor, Governor-elect or candidate for Governor shall receive or solicit a campaign contribution on behalf of a legislative official, statewide official or candidate therefor during the period beginning January 1st immediately preceding a regular biennial session of the Legislative Assembly and ending upon adjournment of the regular biennial session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(11) No person or political committee affiliated with a political party, caucus of either house of the Legislative Assembly, legislative official, statewide official or the

Governor, Governor-elect or candidate for Governor shall receive or solicit a campaign contribution on behalf of the Governor, Governor-elect or candidate for Governor during the period beginning January 1st immediately preceding a regular biennial session of the Legislative Assembly and ending 30 days following adjournment of the regular biennial session of the Legislative Assembly, or during any special session of the Legislative Assembly.

(12) No person shall represent a client for a fee before the governing body of a public body of which the person is a member. This subsection does not apply to the person's employer, business partner or other associate. [1974 s.s. c.72 §3; 1975 c.543 §2; 1987 c.566 §9; 1989 c.340 §3; 1991 c.146 §1; 1991 c.770 §6; 1991 c.911 §4]

244.045 Employment in industry formerly regulated prohibited. A person who has been a Public Utility Commissioner, the Director of the Department of Insurance and Finance, the Insurance Commissioner, Supervisor of the Savings and Loan, Credit Union and Consumer Finance Section or the Supervisor of the Banking Section shall not:

(1) Within one year after the public official ceases to hold the position become an employee of any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(2) Within two years after the public official ceases to hold the position:

(a) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(b) Influence or try to influence the actions of the agency; or

(c) Disclose any confidential information gained as a public official. [1987 c.360 §1]

REPORTING

244.050 Persons required to file statement of economic interest; duty of Legislative Assembly. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except municipal judges in those cities where a majority of the votes cast in the subject city in

the 1974 general election was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session), and except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for an office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(f) The Chancellor and Vice Chancellors of the State System of Higher Education and the President and Vice Presidents, or their administrative equivalents, in each institution under the jurisdiction of the State Board of Higher Education.

(g) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Executive Department.

(G) Director of the Oregon State Fair and Exposition Center.

(H) State Fish and Wildlife Director.

(I) State Forester.

(J) Director of Department of General Services.

(K) State Geologist.

(L) Director of Department of Human Resources.

(M) Director of the Department of Insurance and Finance.

(N) Director of Division of State Lands.

(O) State Librarian.

(P) Administrator of Oregon Liquor Control Commission.

(Q) Superintendent of State Police.

(R) Director of Public Employees' Retirement Board.

(S) Director of Department of Revenue.

(T) Director of Transportation.

(U) Public Utility Commissioner.

(V) Director of Veterans' Affairs.

(W) Executive Director of Oregon Government Ethics Commission.

(X) Director of Oregon Office of Educational Policy and Planning.

(Y) Director of the Department of Energy.

(h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.

(i) Every elected city or county official except elected officials in those cities or counties where a majority of votes cast in the subject city or county in any election on the issue of filing statements of economic interest under this chapter was in opposition.

(j) Every member of a city or county planning, zoning or development commission except such members in those cities or counties where a majority of votes cast in the subject city or county at any election on the issue of filing statements of economic interest under this chapter was in opposition to the ballot measure provided for in section 10, chapter 68, Oregon Laws 1974 (special session).

(k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county except such employees in those cities or counties where a majority of votes cast in the subject city or county in an election on the issue of filing statements of economic interest under this chapter was in opposition.

(L) Members of local government boundary commissions formed under ORS 199.410 to 199.512.

(m) Every member of a governing body of a metropolitan service district and the executive officer thereof established under ORS 198.705 to 198.955 or 268.100 to 268.200.

(n) Each member of the board of directors of the State Accident Insurance Fund Corporation.

(o) Every member of the following state boards and commissions:

(A) Capitol Planning Commission.

(B) Board of Geologic and Mineral Industries.

(C) Economic Development Commission.

(D) State Board of Education.

(E) Environmental Quality Commission.

(F) Fish and Wildlife Commission of the State of Oregon.

(G) State Board of Forestry.

(H) Oregon Government Ethics Commission.

(I) Oregon Health Council.

(J) State Board of Higher Education.

(K) Oregon Investment Council.

(L) Land Conservation and Development Commission.

(M) Oregon Liquor Control Commission.

- (N) Oregon Short Term Fund Board.
- (O) State Marine Board.
- (P) Mass transit district boards.
- (Q) Energy Facility Siting Council.
- (R) Board of Commissioners of the Port of Portland.
- (S) Employment Relations Board.
- (T) Public Employes' Retirement Board.
- (U) Oregon Racing Commission.
- (V) Oregon Transportation Commission.
- (W) Wage and Hour Commission.
- (X) Water Resources Commission.
- (Y) Workers' Compensation Board.
- (Z) Housing, Educational and Cultural Facilities Authority.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing date for the statewide primary election, each candidate for elective public office described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Within 30 days after the filing date for the statewide general election, each candidate for elective public office described in subsection (1) of this section who was not a candidate in the preceding statewide primary election, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) The Legislative Assembly shall maintain a continuing review of the operation of this chapter and from time to time may add to or delete from the list of boards and commissions in subsections (1) to (3) of this section as in the judgment of the Legislative Assembly is consistent with the purposes of this chapter.

(6) Subsections (1) to (5) of this section apply only to persons who are incumbent, elected or appointed officials as of April 15 and to persons who are candidates for office on April 15. Those sections also apply to persons who do not become candidates until 30 days after the filing date for the statewide general election. [1974 s.s. c.72 §§4, 4a; 1975 c.543 §3; 1977 c.588 §3; 1977 c.751 §16; 1979 c.374 §5; 1979 c.666 §6; 1979 c.697 §1; 1979 c.736 §1; 1979 c.829 §9b; 1987 c.373 §26; 1987 c.414 §148; 1987 c.566 §10; 1991 c.73 §2; 1991 c.160 §1; 1991 c.163 §1; 1991 c.470 §13; 1991 c.614 §2]

Note: Sections 3 and 4, chapter 160, Oregon Laws 1991, provide:

Sec. 3. As used in ORS 244.050, "primary election" means the biennial primary election. [1991 c.160 §3; 1991 c.163 §3; 1991 c.470 §15]

Sec. 4. Section 3 of this Act is added to and made a part of chapter 267, Oregon Laws 1987. [1991 c.160 §4; 1991 c.163 §4; 1991 c.470 §16]

244.060 Form of statement of economic interest. The statement of economic interest filed under ORS 244.050, shall be on a form prescribed by the commission, and the person filing the statement shall supply the information required by this section and ORS 244.090, as follows:

(1) The name of all positions as officer of a business and business directorships held by the person or a member of the household of the person during the preceding calendar year.

(2) All names under which the person and members of the household of the person do business.

(3) Sources of income received at any time during the preceding calendar year by the person or a member of the household of the person which produces 10 percent or more of the total annual household income.

(4) The name, principal address and brief description of the source of income from which 50 percent or more of the total annual income of the person and members of the household of the person was received during the preceding calendar year and whether the source existed during the preceding year, and whether the source is derived from an entity that now does business or could reasonably be expected to do business or has legislative or administrative interest in the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority.

(5) The listing of all real property in which the public official or candidate therefor or a member of the household of the public official or candidate has or has had any personal, beneficial ownership interest during the preceding calendar year, any options to purchase or sell real property, including a land sales contract, and any other rights of any kind in real property located within the geographic boundaries of the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority.

(6)(a) Notwithstanding ORS 244.020 (9)(c), if a public official has received food, lodging and payment of travel expenses exceeding \$100 when participating in an event which bears a relationship to the public official's office and when appearing in an official ca-

capacity, the name, nature and business address of the organization paying the expenses and the date and amount of that expenditure.

(b) Beginning on July 1, 1992, the dollar amount specified in paragraph (a) of this subsection shall be adjusted annually by the commission based upon the change in the Portland Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor during the preceding 12-month period. The amount determined under this paragraph shall be rounded to the nearest dollar. [1974 s.s. c.72 §5; 1975 c.543 §4; 1987 c.566 §11; 1991 c.770 §7]

244.070 When additional statement required. The following additional economic interest shall be reported for the preceding calendar year only if the source of that interest is derived from an individual or business which has been doing business, does business or could reasonably be expected to do business with or has legislative or administrative interest in the governmental agency of which the public official is or the candidate if elected would be a member or over which the public official has or the candidate if elected would have authority:

(1) Each source of income over \$1,000, other than a source of income disclosed under ORS 244.060, whether or not taxable, received by the public official or candidate therefor or a member of the household of the public official or candidate.

(2) Each person to whom the public official or candidate therefor or a member of the household of the public official or candidate owes or has owed money in excess of \$1,000, the interest rate thereon and the date of the loan, except for debts owed to any federal or state regulated financial institution or retail contracts.

(3) Each business, principal address, and brief description of its nature, in which the public official or candidate therefor or a member of the household of the public official or candidate has or has had a personal, beneficial interest or investment, including stocks or other securities, in excess of \$1,000, except for individual items involved in a mutual fund or a blind trust, or a time or demand deposit in a financial institution, shares in a credit union, or the cash surrender value of life insurance.

(4) Each person for whom the public official or candidate has performed services for a fee in excess of \$1,000 except for any disclosure otherwise prohibited by law or by a professional code of ethics. [1974 s.s. c.72 §6; 1975 c.543 §5; 1987 c.566 §12]

244.080 Filing of different form allowed by rule. The commission by rule may

accept the filing of a form containing less than the information required under ORS 244.060 and 244.070 if the public official certifies thereon that the information contained on the form previously filed is unchanged. If any portion of the information contained in the filing is changed, the public official may certify only as to the changed material. [Subsection (1) enacted as 1974 s.s. c.72 §8; subsection (2) enacted as 1975 c.543 §7(1); 1977 c.588 §4; 1987 c.566 §13]

244.090 When report on compensated lobbyist required. (1) Each public official of this state or candidate required to make a statement of economic interest shall report by name any compensated lobbyist who, during the preceding calendar year, was associated with a business with which the public official or candidate or a member of the household of the public official or candidate was also associated. Holding stock in a publicly traded corporation in which the lobbyist also holds stock is not a relationship for which a statement is required.

(2) As used in this section "lobbyist" has the meaning set forth in ORS 171.725. [1974 s.s. c.72 §7; 1975 c.543 §6; 1987 c.566 §14]

244.100 When commission may require reporting of gifts; exemptions from gift limitation. The commission by rule may require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate for elective office.

(2) The commission by rule may exempt from the gift limitation contained in ORS 244.040, any gift of food or beverage but may require that when gifts of food or beverage exceed a dollar amount fixed by the commission, the source thereof shall be disclosed on a form prescribed by the commission.

(3) In addition to any disclosures or reports required under subsections (1) and (2) of this section, any person or organization that provides a public official with food, lodging or travel expenses exceeding \$50, as described in ORS 244.060 (6), shall notify the public official in writing of the amount of the expense. The notice shall be sent to the public official within 10 days from the date such expenses are incurred. [1975 c.543 §11; 1991 c.677 §1]

244.110 Required statements subject to penalty for false swearing. (1) Any statement of economic interest required to be filed by ORS 244.050, 244.060, 244.070, 244.080, 244.090 or 244.100 shall contain or be verified by a written declaration that it is made under the penalties of false swearing. Such declaration shall be in lieu of any oath otherwise required.

(2) No person shall willfully make and subscribe any return statement or other doc-

ument which contains or is verified by a written declaration that it is made under penalties for false swearing, which the person does not believe to be true and correct to every matter. [1974 s.s. c.72 §22; 1977 c.588 §5]

244.115 Filing required for member of Congress or candidate; filing date. Each member of Congress from this state and each candidate for a seat in Congress from this state shall file with the Oregon Government Ethics Commission a copy of the federal ethics filing required under federal law or by congressional rule within 30 days after the filing date required under federal law or congressional rule. If the filing is not made in a timely manner, the commission shall obtain copies of the filing and indicate thereon that the filing was not made with the commission by the member of Congress or candidate. All such filings are public records available for public inspection. [1991 c.160 §7]

DECLARATION OF POTENTIAL CONFLICTS

244.120 Methods of handling potential conflicts. (1) When met with a potential conflict of interest, a public official shall:

(a) If the public official is an elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.

(b) If the public official is a member of the Legislative Assembly, announce publicly, pursuant to rules of the house of which the public official is a member, the nature of the potential conflict before taking any action thereon in the capacity of a public official.

(c) If the public official is a judge, remove the judge from the case giving rise to the conflict or advise the parties of the nature of the conflict.

(d) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.

(2) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out

of which the potential conflict arises is discussed or debated.

(3) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so. [1974 s.s. c.72 §10; 1975 c.543 §7; 1987 c.566 §15]

244.130 Recording of notice of potential conflict; effect of failure to disclose conflict. (1) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body, and a notice of the potential conflict and how it was disposed of may in the discretion of the public body be provided the commission within a reasonable period of time. The commission may by rule establish criteria for cases in which such information shall, shall not, or may be provided to it.

(2) No decision or action of any public official or any board or commission on which the public official serves or agency by which the public official is employed shall be voided by any court solely by reason of the failure of the public official to disclose a conflict of interest. [1974 s.s. c.72 §11; 1975 c.543 §8]

APPLICATION OF REPORTING REQUIREMENTS TO LOCAL GOVERNMENTS

244.160 Application to political subdivisions except cities and counties. Any political subdivision in this state other than a city or county by resolution may require any public official of the subdivision to file a verified statement of economic interest. The filing shall be made with the commission. A copy of the ordinance shall be filed with the commission. [1974 s.s. c.72 §9]

244.170 "Statement of economic interest" defined. As used in this chapter, "statement of economic interest" means a statement as described by ORS 244.060 to 244.080. [1975 c.216 §1a]

244.180 When city officials required to file statement. (1) As used in this section, "public officials of a city" means each person holding an elective city office; each member of a city planning, zoning or development commission; and the chief executive officer of the city who performs the duties of manager or a principal administrator of the city.

(2) Public officials of a city are required to file a statement of economic interest with the commission if a majority of the votes cast by the electors of the city voting at the election as provided for in ORS 244.201 is in favor thereof. [1975 c.216 §2; 1987 c.566 §16]

244.190 When county officials required to file statement. (1) As used in this section, "public officials of a county" means

each person holding an elective county office; each member of a county planning, zoning or development commission; and the chief executive officer of the county who performs the duties of a principal administrator of the county.

(2) Public officials of a county are required to file a statement of economic interest with the commission if a majority of the votes cast by the electors of the county voting at the election as provided for in ORS 244.201 is in favor thereof. [1975 c.216 §3; 1987 c.566 §17]

244.195 Certain city and county officers to be informed of reporting requirements; effect of failure to inform. (1) The city recorder or county clerk, respectively, shall provide to every person newly elected or appointed to any city or county office for which statements of financial interest are required under ORS 244.050 information about the requirements of ORS 244.050, 244.060, 244.070, 244.080 and 244.090 either at the first meeting attended by the new officer or before the officer takes the oath of office, whichever is first.

(2) At the time of fulfilling duties under subsection (1) of this section, the city recorder or county clerk shall provide to each new officer a copy of the statements and explanation provided to the city recorder or county clerk under subsection (3) of this section.

(3) The commission shall provide copies of the statements described in ORS 244.060, 244.070, 244.080 and 244.090 and an explanation of the requirements of the law relating to the statements to each city recorder and county clerk.

(4) Any person described in subsection (1) of this section who is not informed of the filing requirements under ORS 244.050, 244.060, 244.070, 244.080 and 244.090 and provided with a copy of the statements and explanation described in subsection (3) of this section before taking the oath of office may resign that office within 90 days thereafter or before the next date specified in ORS 244.050 for the filing of a statement, whichever is longer, without filing any statement and without sanction or penalty that might otherwise be imposed for not filing. [1979 c.332 §2]

244.200 [1975 c.216 §5; repealed by 1983 c.350 §62 (244.201 enacted in lieu of 244.200 and 244.210)]

244.201 Election procedure for city or county. (1) This section establishes the procedure for submitting at an election:

(a) The question whether public officials of a city, as defined in ORS 244.180, shall be required to file a statement of economic in-

terest with the Oregon Government Ethics Commission.

(b) The question whether public officials of a county, as defined in ORS 244.190, shall be required to file a statement of economic interest with the Oregon Government Ethics Commission.

(2) Upon receipt of a petition filed as provided in this section, the governing body of a city or county shall submit the question at the next primary or general election.

(3) The requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition:

(a) In the case of a city, in ORS 250.265 to 250.346.

(b) In the case of a county, in ORS 250.165 to 250.235.

(4) If ORS 250.255 makes ORS 250.265 to 250.346 inapplicable to a city or if ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to a county, the requirements for preparing, circulating and filing a petition under this section shall be as provided for an initiative petition under the city or county charter or an ordinance adopted under the city or county charter.

(5) The ballot title for a question submitted to election under this section must specify the public officials of the city, as defined in ORS 244.180, or of the county, as defined in ORS 244.190.

(6) If a question under this section appears on both city and county ballots the votes cast in each city and in each county shall be counted, canvassed, returned and declared separately for each city and county.

(7) The results of any question submitted to election under this section shall be forwarded by the city recorder or county clerk to the Oregon Government Ethics Commission not later than January 1 next following the election. [1983 c.350 §63 (enacted in lieu of 244.200 and 244.210)]

244.210 [1975 c.216 §4; repealed by 1983 c.350 §62 (244.201 enacted in lieu of 244.200 and 244.210)]

COMMISSION

244.250 Oregon Government Ethics Commission; appointment; term; quorum; compensation. (1) The Oregon Government Ethics Commission is established, consisting of seven members appointed in the following manner to be confirmed by the Senate:

(a) Four members appointed by the Governor from among persons recommended, one each by the leadership of the Democratic and Republican parties in each house of the Legislative Assembly. If a person recommended,

by the leadership of the Democratic or Republican party is not approved by the Governor, another person shall be recommended.

(b) Three members appointed by the Governor without leadership recommendation, no more than two of whom shall be from the same major political party.

(2) No person who holds any public office listed in ORS 244.050 (1) except as a member of the commission shall be appointed to the commission. No more than four members shall be members of the same political party.

(3) The term of office is four years. No member shall be eligible to be appointed to more than one full term but may serve out an unexpired term. However, those members first appointed to the commission serving less than a three-year term are eligible for a second appointment for a full term. Vacancies shall be filled by the appointing authority for the unexpired term.

(4) The commission shall elect a chairman and vice chairman for such terms and duties as the commission may require.

(5) A quorum consists of four members but no final decision may be made without an affirmative vote of the majority of the members appointed to the commission.

(6) Members shall be entitled to compensation and expenses as provided in ORS 292.495. [1974 *s.s.* c.72 §12; 1977 c.588 §6; 1987 c.566 §18; 1991 c.770 §3]

244.260 Investigations; findings; hearings. (1) Upon its own instigation or signed complaint of any person, the commission may make investigations with respect to statements filed under this chapter or resolution adopted pursuant thereto, alleged failure to file any required statement, or any other alleged violation of any provision of this chapter, and shall report findings together with supporting reasons. The public official who is the subject of a complaint or of the commission's own action shall be notified immediately upon receipt of the complaint or upon adoption of a motion by the commission to undertake any action concerning the public official. The notice shall be given by telephone if the official can be reached and shall also be in writing mailed to the official. The notice shall include the nature of the complaint or motion. Before investigating any complaint or an investigation made on its own instigation, the commission shall make a finding that there is cause to undertake an investigation, notify the public official who is the subject of the investigation, identify the issues to be investigated and shall confine its investigation to those issues. If the commission finds reason to expand its investigation, it shall move to do so and shall record in its minutes the is-

ssues to be investigated before expanding the scope of its initial investigation and formally notify the complainant and the public official who is the subject of the complaint of the expansion and the scope thereof. If the commission does not make a finding of cause, it shall dismiss the complaint or rescind its motion and shall formally enter the dismissal or rescission on its records. The commission shall notify the public official of the dismissal or rescission. After dismissal or rescission, the commission shall take no further action involving the public official unless a new and different complaint is filed or action at its own instigation is undertaken based on different conduct.

(2) In carrying out its duties, the commission may require any additional information, administer oaths, take depositions and issue subpoenas to compel attendance of witnesses and the production of books, papers, records, memoranda or other information necessary to carry out the commission's duties under this chapter. The commission may issue a subpoena at any time after the filing of a complaint or acting at its own instigation until its final decision. If any person fails to comply with any subpoena issued under this section or refuses to testify on any matters on which the person may be lawfully interrogated, the procedure provided in ORS 183.440 shall be followed to compel compliance.

(3) The person conducting the investigation shall do so in an impartial, objective manner. All favorable and unfavorable information collected by the investigator shall be turned over to the commission.

(4) The findings of the commission in any investigation shall be reported impartially, including both favorable and unfavorable findings, and shall be made available to the public official who is the subject thereof, to the appointing authority, if any, and to the Attorney General for state public officials and to the appropriate district attorney for local public officials. The findings shall be made available to the Commission on Judicial Fitness and Disability in any investigation involving a judge.

(5) Hearings relating to any charge of alleged violation of this chapter may be held before the commission or before a hearings officer appointed by the commission. The procedure shall be that for a contested case under ORS 183.310 to 183.550.

(6) The period of time from the filing of a complaint or from acting on the commission's own instigation to the finding of cause or dismissal of the complaint or rescission of the motion shall be termed the Preliminary Review Phase and shall not exceed 90 days unless a delay is stipulated to by both the

public official and the Oregon Government Ethics Commission with the commission reserving a portion of the delay period to complete its actions. Prior to the end of the Preliminary Review Phase, the executive director shall prepare a statement of the facts determined during the phase, including appropriate legal citations and relevant authorities. Before presentation to the commission, the executive director's statement shall be reviewed by legal counsel to the commission.

(7) The period of time from the finding of cause to the beginning of any contested case proceedings shall be termed the Investigatory Phase and shall not exceed 120 days unless a delay is stipulated to by both the public official and the Oregon Government Ethics Commission with the commission reserving a portion of the delay period to complete its actions. At the end of the Investigatory Phase, the commission shall take action by order, which action may include:

- (a) Dismissal, with or without comment;
 - (b) Continuation of the investigation to determine further facts, but no more than one continuation, not to exceed 30 days' duration, shall be taken;
 - (c) Moving to a contested case proceeding;
 - (d) Seeking a negotiated settlement; or
 - (e) Taking other appropriate action if justified by the findings.
- (8) The commission shall not investigate any complaint or act at its own instigation on alleged conduct that occurred more than four years before the complaint is filed or action is undertaken.

(9) As used in this section, "cause" means that there is a substantial, objective basis for believing that an offense or violation may have been committed and the person to be investigated may have committed the offense or violation. [1974 s.s. c.72 §13; 1989 c.807 §1; 1991 c.272 §1; 1991 c.770 §1a]

244.270 Findings as grounds for removal. If the commission finds that an appointed public official has violated any provision of this chapter or any rule adopted pursuant thereto, the finding shall constitute prima facie evidence of unfitness where removal is authorized for cause either by law or pursuant to section 6, Article VII (Amended) of the Oregon Constitution. [1974 s.s. c.72 §14; 1977 c.588 §7]

244.280 Opinions; liability of person following interpretation. (1) Upon the written request of any public official, candidate for public office or any person, or upon its own motion, the commission, under sig-

nature of the chairperson, may issue and publish opinions on the requirements of this chapter, based on actual or hypothetical circumstances.

(2) If any public official or business with which the public official is associated is in doubt whether a proposed transaction or action constitutes a violation of this chapter, the public official or the business may request in writing a determination from the commission. The requester shall supply such information as the commission requests to enable it to issue the interpretation.

(3) A public official or business with which a public official is associated shall not be liable under this chapter, for any action or transaction carried out in accordance with an advisory interpretation issued under subsection (2) of this section. Such an advisory interpretation shall be considered a formal opinion having precedential effect and shall be subject to review by legal counsel to the commission before the interpretation is sent to the requester. [1974 s.s. c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2]

244.290 General duties of commission; rules. The commission shall:

- (1) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or resolution adopted pursuant thereto.
- (2) Prepare, publish and provide a manual setting forth recommended uniform methods of reporting for use by persons filing statements under this chapter or resolution adopted pursuant thereto.
- (3) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(4) Prepare and publish such reports as the commission finds necessary.

(5) Adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter. [1974 s.s. c.72 §17; 1987 c.566 §20]

244.300 Status of records. Records of the commission shall constitute public records of this state. [1974 s.s. c.72 §18; 1977 c.588 §9]

244.310 Executive director; duties. The commission shall appoint an executive director to serve at the pleasure of the commission. The executive director shall be responsible for the administrative operations of the commission and shall perform such other duties as may be designated or assigned to the executive director from time to time by the commission. However, the commission shall not delegate the power to make regulations or issue advisory opinions to the executive director. [1974 s.s. c.72 §16]

244.320 Manual on government ethics; revision. (1) The Oregon Government Ethics Commission shall cause to have prepared and published a manual on government ethics that explains in terms understandable to legislative and public officials and the public the requirements of this chapter and the commission's interpretation of those requirements whether stated by rule or in an opinion.

(2) The commission shall be guided in preparing its manual by the manual prepared by the Attorney General to guide public officials and the public in the requirements of ORS chapter 192.

(3) The manual required by this section shall be updated as often as the commission believes necessary but no less frequently than once every four years. [1991 c.522 §2]

ENFORCEMENT

244.350 Civil penalties. The commission may impose civil penalties not to exceed \$1,000 for violating any provision of this chapter or any resolution adopted pursuant thereto except that for violation of ORS 244.045 the commission may impose a civil penalty of not to exceed \$5,000. Any penalty imposed under this section is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law, including removal from office. [1974 s.s. c.72 §19; 1977 c.588 §10; 1987 c.360 §3]

244.360 Forfeiture of twice financial benefit. The commission, in addition to civil penalties prescribed in ORS 244.350, may require any public official who has financially benefited the public official or any other person by violation of any provision of this chapter to forfeit twice the amount that the public official or any other person realized from violating any provision of this chapter. [1974 s.s. c.72 §20; 1987 c.566 §21]

244.370 Procedure for collecting penalties. (1) Any civil penalty under ORS 244.350 or 244.360 shall be imposed in the manner prescribed by ORS 183.090.

(2) Notwithstanding ORS 183.090, a hearing shall be required in all cases prior to imposition of penalty unless the public official waives the hearing. The public official to whom the notice is addressed shall have 10 days from the date of service of the notice in which to waive a hearing before the commission and the public official shall be so notified.

(3) All penalties recovered under ORS 244.350 and 244.360 shall be paid into the State Treasury and credited to the General Fund. [1974 s.s. c.72 §21; 1977 c.588 §11; 1989 c.706 §10; 1991 c.734 §13]

244.380 Sanctions against noncomplying officials. In the event that a public official or candidate subject to the requirements of this chapter, fails to file a statement of economic interests required by this chapter, or by resolution adopted pursuant thereto, the following actions shall be taken, irrespective of other penalties which may be imposed pursuant to this chapter if, after a hearing has been granted the public official and a penalty is imposed under ORS 244.370, the public official continues to refuse to file a statement of economic interests:

(1) Except as to judges, no compensation shall be paid to a salaried public official. Upon notice to the Executive Department or to the appropriate local authority from the commission of the failure to file the required report when due, compensation shall be withheld and the public official shall be barred from beginning or continuing to exercise the official duty of the public official until such time as the public official complies with the requirements of this chapter. In the case of a public official who receives no compensation, the public official shall be barred from beginning or continuing the exercise of the official duty of the public official until such time as a statement is filed as required under this chapter.

(2) Upon notice to the chief elections officer of the failure to file the statement required by this chapter, from the commission, the chief elections officer shall cause the name of the candidate for public office to be removed from the ballot, pursuant to ORS 254.165, on which the candidate would otherwise appear or, if the candidate has been nominated or elected, shall refuse to issue a certificate of nomination or election. [1974 s.s. c.72 §23; 1975 c.543 §12; 1977 c.588 §12; 1987 c.566 §22]

244.390 Status of penalties and sanctions. The penalties and sanctions imposed by this chapter are in addition to and not in lieu of any other penalty or sanction prescribed or authorized by law which applies to the conduct of public officials. [1974 s.s. c.72 §25]

244.400 Attorney fees for public official prevailing in enforcement action. (1) A public official who prevails following a contested case hearing under this chapter shall be awarded reasonable attorney fees at the conclusion of the contested case or on appeal.

(2) Upon prevailing following the conclusion of a contested case, the public official may petition the Circuit Court for Marion County for the purpose of determining the award of reasonable attorney fees. The Oregon Government Ethics Commission shall be named as a respondent in the petition. The petitioner and respondent shall follow

the procedure provided in ORCP 68 for the determination of reasonable attorney fees. The court shall give precedence on its docket to petitions filed under this subsection as the circumstances may require.

(3) The Court of Appeals shall award reasonable attorney fees to the public official if the public official prevails on appeal from any decisions of the commission.

(4) Any attorney fees awarded to the public official pursuant to this section shall be paid from the General Fund. [1991 c.770 §9]

CHAPTER 245

[Reserved for expansion]