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Chapter 176

1993 EDITION

Governor

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GENERAL PROVISIONS

176.010 Commencement of term; inauguration. The official term of the Governor shall commence upon the publication of the returns by the Speaker of the House of Representatives, as provided in section 4, Article V, Oregon Constitution; or in case of an election of the Governor by the Legislative Assembly, as provided in section 5, Article V, Oregon Constitution, the official term of the Governor shall commence immediately upon such election; and the Governor shall be inaugurated by taking the oath of office.

176.020 Cessation of term. The term of office of the Governor ceases when the successor of the Governor, having been declared elected by the Legislative Assembly as provided in the Constitution, is inaugurated by taking the oath of office.

176.030 [Renumbered 176.510]

176.040 Disability of Governor, how determined; succession to office, when permitted. (1) Whenever it appears that the Governor is unable to discharge the duties of the office, the person next in line of succession to the office of Governor or the person who is Chief Justice of the Supreme Court of Oregon may call a conference consisting of the person who is Chief Justice, the person who is chief medical officer of the state hospital in Salem and the person who is dean of the Oregon Health Sciences University. The three members of the conference shall examine the Governor. After the examination, or if upon attempting to examine the Governor the members of the conference are unable to examine the Governor because of circumstances beyond their control, they shall conduct a secret ballot and by unanimous vote may find that the Governor is temporarily unable to discharge the duties of the office.

(2) The finding of or failure to find a disability shall be made public, and in case the Governor is found to be unable to discharge the duties of the office, the person next in line of succession to the office of Governor shall be notified. After receiving the notification such person may, under section 8, Article V of the Oregon Constitution, become Governor until the disability be removed. [1959 c.672 §1; 1969 c.391 §13]

176.050 Finding that disability is, or is not, removed. (1) Whenever a Governor who is unable to discharge the duties of the office believes disability of the Governor to be removed, the Governor may call a conference consisting of the three persons referred to as members of such a conference in ORS 176.040 (1). The three members of the conference shall examine the disabled Governor. After the examination they shall conduct a secret ballot and by unanimous vote may find the disability removed.

(2) The finding of or failure to find the disability removed shall be made public. [1959 c.672 §2]

176.110 Actions of Governor-elect; budget report; expenses. (1) The person elected to the office of Governor may take any action prior to the date the official term of office commences that is necessary to enable the Governor to exercise on such date the powers and duties of the office of Governor.

(2) The Governor-elect shall cause the budget report for the biennium beginning July 1 of the year in which the Governor takes office to be compiled and prepared for printing as required in ORS 291.222.

(3) All necessary expenses of the Governor-elect incurred in carrying out the provisions of this section shall be audited by the Secretary of State and paid from any funds appropriated for this purpose in the same manner as other claims against the state are paid. [1965 c.80 §1; 1969 c.464 §1]

176.250 Service of subpoena upon Governor. Notwithstanding any provision of the Oregon Rules of Civil Procedure or other laws of this state, service of subpoena upon the Governor shall be made by delivering a copy to the legal counsel to the Governor or, in the legal counsel's absence, an assistant to the Governor. [1983 c.82 §3]

176.510 [Formerly 176.030; repealed by 1983 c.82 §4]

176.610 [1969 c.597 §2; repealed by 1971 c.301 §26 and by 1971 c.319 §11 and by 1971 c.401 §120]

176.620 [1969 c.597 §3; repealed by 1971 c.319 §11]

176.630 [1969 c.597 §4; 1971 c.319 §4; renumbered 184.765]

176.650 [1971 c.686 §1; repealed by 1973 c.1 §1]

176.660 [1971 c.686 §10; repealed by 1973 c.1 §1]

176.670 [1971 c.686 §8; repealed by 1973 c.1 §1]

176.680 [1971 c.686 §2; repealed by 1973 c.1 §1]

176.690 [1971 c.686 §3; repealed by 1973 c.1 §1]

176.700 [1971 c.686 §4; repealed by 1973 c.1 §1]

176.710 [1971 c.686 §5; repealed by 1973 c.1 §1]

176.720 [1971 c.686 §6; repealed by 1973 c.1 §1]

176.730 [1971 c.686 §7; repealed by 1973 c.1 §1]

ENERGY RESOURCE EMERGENCY POWERS

176.750 "Energy resources" defined. As used in ORS 176.750 to 176.815, unless the context requires otherwise, "energy resources" includes electricity, natural gas, petroleum, coal, wood fuels, geothermal sources, radioactive materials and any other resource yielding energy. [1974 s.s. c.5 §2]

176.755 Policy. (1) The Legislative Assembly finds that the lack of energy resources and other energy resource emergencies may threaten the availability of essential services and transportation, and the operation of the economy, jeopardizing the peace, health, safety and welfare of the people of Oregon.

(2) The Legislative Assembly finds it necessary to provide an orderly procedure for anticipating and responding to energy resource shortages and to grant, under conditions prescribed in ORS 176.750 to 176.815, emergency powers to order involuntary curtailments in the use of energy resources to the Governor and other state and local officers.

(3) The Legislative Assembly declares it the policy of Oregon to assist the President of the United States in effective management and control of such factors and situations as contribute to an emergency affecting or likely to affect Oregon; to cooperate with other states in matters related to an emergency affecting or likely to affect Oregon; to meet extraordinary conditions in Oregon arising out of the crisis, by taking such steps as are necessary and appropriate; and generally to protect the peace, health, safety and welfare of the people of Oregon. [1974 s.s. c.5 §1]

176.760 Information to be available to Governor. (1) On a continuing basis the Governor may obtain all necessary information from energy resource producers, suppliers and consumers, doing business within Oregon, and from political subdivisions in this state, as necessary for the Governor to determine whether shortages or an emergency will require energy resource conservation measures. Such information may include, but is not limited to:

(a) Sales volumes.

(b) Forecasts of energy resource requirements.

(c) Inventory of energy resources.

(d) Local distribution patterns of information under paragraphs (a) to (c) of this subsection.

(2) In obtaining information at any time from energy resource producers or suppliers under subsection (1)(c) of this section, and in obtaining any other information under subsection (1) of this section during a state of emergency proclaimed under ORS 176.775 to 176.785, the Governor may subpoena witnesses, material and relevant books, papers, accounts, records and memoranda, administer oaths, and may cause the depositions of persons residing within or without Oregon to be taken in the manner prescribed for depositions in civil actions in circuit courts, to obtain information relevant to energy resources that are the subject of the proclaimed emergency.

(3) In obtaining information under this section the Governor:

(a) Shall seek to avoid eliciting information already furnished by a person or political subdivision in this state to a federal, state or local regulatory authority that is available for the study of the Governor; and

(b) Shall cause reporting procedures, including forms, to conform to existing requirements of federal, state and local regulatory authorities. [1974 s.s. c.5 §3; 1975 c.601 §1]

176.765 Confidentiality of information; use; liability. (1) Notwithstanding any other law, information furnished under ORS 176.760 and designated by that person as confidential, shall be maintained as confidential by the Governor and any person who obtains information which the person knows to be confidential under ORS 176.750 to 176.815. The Governor shall not make known in any manner any particulars of such information to persons other than those specified in subsection (4) of this section. No subpoena or judicial order may be issued compelling the Governor or any other person to divulge or make known such confidential information, except when relevant to a prosecution for violation of subsection (5) of this section.

(2) Nothing in this section prohibits use of confidential information to prepare statistics or other general data for publication, so presented as to prevent identification of particular persons.

(3) Any person who is served with a subpoena to give testimony orally or in writing or to produce books, papers, correspondence, memoranda, agreements or other documents or records as provided in ORS 176.750 to 176.815 may apply to any circuit court in Oregon for protection against abuse or hardship in the manner provided in ORCP 36 C.

(4) References to the Governor in this section include only individuals designated for this purpose in writing by the Governor.

(5) In addition to any penalties under ORS 176.990, a person who discloses confidential information in violation of this section willfully or with criminal negligence, as defined by ORS 161.085, may be subject, notwithstanding any other law, to removal from office or immediate dismissal from public employment. [1974 s.s. c.5 §4; 1977 c.358 §8; 1979 c.284 §119]

176.770 Curtailment priorities. In consultation with appropriate federal, state officials and officials of political subdivisions in

this state the Governor, unless otherwise provided by law, shall cause to be established, and revised as appropriate, standby priorities for curtailment in the use of energy resources. However, involuntary curtailments may be ordered only by means of executive orders issued under ORS 176.750 to 176.815. [1974 s.s. c.5 §5]

176.775 Content of Governor's proclamation of lack of energy resource or resource emergency. Whenever the Governor declares by proclamation that lack of an energy resource or any energy resource emergency threatens or is likely to threaten the availability of essential services, transportation or the operation of the economy, the Governor shall state the nature of the energy resource shortage or emergency. [1974 s.s. c.5 §6]

176.780 Action authorized by proclamation under ORS 176.775. Whenever the Governor has issued a proclamation under ORS 176.775, the Governor may by executive order direct actions:

(1) Reducing energy resource usage by state agencies and political subdivisions in this state;

(2) Promoting conservation, prevention of waste and salvage of energy resources and the materials, services and facilities derived therefrom or dependent thereon, by state agencies and political subdivisions in this state;

(3) Directing the establishment by state agencies and political subdivisions in this state of programs necessary to implement and comply with federal energy conservation programs, including but not limited to allocation or rationing of energy resources and the distribution of the state's discretionary allotments. [1974 s.s. c.5 §7]

176.785 Proclamation of state of emergency. Whenever the Governor determines that an existing or imminent severe disruption in the supply of one or more energy resources, in Oregon or elsewhere, threatens the availability of essential services, transportation or the operation of the economy, jeopardizing the peace, health, safety and welfare of the people of Oregon, after consultation with the President and majority and minority leaders of the Senate and the Speaker and majority and minority leaders of the House of Representatives, the Governor may by proclamation declare that a state of emergency exists with regard to such resources. In the proclamation, the Governor shall recite with specificity the nature of the severe disruption in the supply of one or more energy resources. [1974 s.s. c.5 §8]

176.790 Duration of emergency under proclamation; renewal or extension of proclamation. (1) A proclamation of emergency and all orders and rules issued as a result of the proclamation under ORS 176.750 to 176.815 shall continue in effect for 30 days unless the Governor rescinds it and declares the emergency ended before the expiration of the 30-day period.

(2) A proclamation may be renewed or extended only by joint resolution of the Legislative Assembly unless 60 days have elapsed from the date of the original proclamation. [1974 s.s. c.5 §8a]

176.795 Actions authorized by proclamation under ORS 176.785. (1) During any emergency proclaimed under ORS 176.785, the Governor by executive order may order involuntary curtailments, adjustments or allocations in the supply and consumption of energy resources applicable to all suppliers and consumers. However, the Governor may not order such curtailments, adjustments or allocations which discriminate within any class of consumers. It is the intent of the Legislative Assembly that any such curtailments, adjustments and allocations be ordered and continue only so long as demonstrably necessary for the maintenance of essential services or transportation, or the continued operation of the economy; and that all such curtailments, adjustments and allocations be applied as uniformly as practicable within each class of suppliers and consumers.

(2) Any involuntary curtailments of electrical or natural gas load, pursuant to subsection (1) of this section, shall be made by executive order to the Public Utility Commission of Oregon requiring the commission to implement plans for curtailment adopted pursuant to ORS 757.710 to 757.730.

(3) In addition to orders issued pursuant to subsection (1) of this section, the Governor by executive order may:

(a) Modify transportation routes and schedules as necessary to conserve energy resources to the extent permissible under federal law and regulations.

(b) Specify the times and manner in which energy resources are supplied or consumed, consistent with the restrictions imposed by subsection (1) of this section.

(4) Any restrictions or involuntary curtailments, adjustments or allocations ordered, except those ordered under ORS 176.775 and 176.780, shall give due consideration to the needs of commercial, retail, professional and service establishments whose normal function is to supply goods or services or both of an essential nature including but not limited to food, lodging, fuel, medical

care facilities, during times of the day other than conventional daytime working hours.

(5) During an emergency proclaimed under ORS 176.785, the Governor by executive order may prescribe and direct activities promoting the conservation, prevention of waste and salvage of energy resources and the materials, services and facilities derived therefrom or dependent thereon. [1974 s.s. c.5 §§9,11]

176.800 Construction of ORS 176.750 to 176.815. (1) Nothing in ORS 176.750 to 176.815 is intended as a delegation of legislative responsibility for the appropriation or authorization of expenditure of public funds, as provided in the Constitution and laws of this state.

(2) The powers vested in the Governor under ORS 176.750 to 176.815 are in addition to, and not in lieu of, emergency powers vested in the Governor under ORS 401.015 to 401.580 and 401.990 or any other law of Oregon.

(3) It is the intent of the Legislative Assembly that if ORS 176.750 to 176.815 and 176.990 are held unconstitutional as applied to contracts executed before February 26, 1974, ORS 176.750 to 176.815 and 176.990 nevertheless are effective with respect to contracts executed on or after February 26, 1974, and with respect to renewals or extensions of existing contracts on or after February 26, 1974. [1974 s.s. c.5 §§10,14,15]

176.805 Status of proclamation, order or directive as rule; judicial review. (1) Any proclamation, executive order or directive issued pursuant to ORS 176.750 to 176.815 shall be deemed to be a rule subject to ORS 183.310 to 183.550, except that jurisdiction for judicial determination of the validity thereof pursuant to ORS 183.400 is conferred upon the Court of Appeals.

(2) Any such proceeding in the Court of Appeals shall be given precedence on the docket over all other cases, except prior cases arising under ORS 176.750 to 176.815 and 176.990. The court may appoint a master to take evidence and make proposed findings of fact and conclusions of law in such case. [1974 s.s. c.5 §12]

176.809 Governor's energy emergency contingency plan. (1) The Governor, in consultation with the Department of Energy and the Economic Development Department, shall compile existing data and prepare an extensive statewide contingency plan to maintain emergency services, continue productivity and reduce hardship during an energy emergency.

(2) As used in this section, "energy emergency" means a severe fuel oil shortage caused by international market conditions or hostilities, or any other emergency threatening the availability of any energy resource necessary to maintain essential services and transportation, the shortage of which jeopardizes the health, safety and welfare of the people of the State of Oregon. [1981 c.597 §2]

176.810 [1974 s.s c.59 §2; 1975 c.606 §14; renumbered 176.820]

176.815 Cooperation with local governments. (1) The Governor shall solicit suggestions and recommendations from local governments in preparing the statewide contingency plan under ORS 176.809.

(2) The contingency plan developed by the Governor under ORS 176.809 shall utilize, with the approval of the local governments, the services and facilities of local governments to implement the plan. [1981 c.597 §3]

176.820 Energy Department Account. There is continuously appropriated from the Motor Vehicle Division Account to the Department of Energy, for deposit in the Energy Department Account, sufficient moneys for the payment of expenses incurred under chapter 606, Oregon Laws 1975; subject to limitations on payment of expenses as approved under legislative authority. [Formerly 176.810]

Note: Legislative Counsel has substituted "chapter 606, Oregon Laws 1975," for the words "this Act" in section 14, chapter 606, Oregon Laws 1975, compiled as 176.820. Specific ORS references have not been substituted, pursuant to 173.160. The range of sections for which substitutions would be required yields ORS references too numerous to be useful. These sections may be determined by referring to the 1975 Comparative Section Table located in Volume 15 of ORS.

PENALTIES

176.990 Penalties. (1) Violation of ORS 176.765 (5) is punishable, upon conviction, by a fine of not more than $1,000 for each offense.

(2) Any person who willfully fails or neglects to comply with an executive order issued under ORS 176.750 to 176.815, or a directive of the Governor implementing such an executive order, shall forfeit and pay into the State Treasury a civil penalty not to exceed $1,000 for each such failure for each day such failure persists.

(3) In addition to or in lieu of the civil penalty available under subsection (2) of this section, the Governor may direct the reduction or termination of supply of any or all energy resources being supplied to the noncomplying party by any person or political subdivisions in this state whose activities in furnishing energy resources are subject to allocation, rationing, regulation or other control under ORS 176.750 to 176.815 or any other law of Oregon. A noncomplying party

is entitled to restoration of supply as soon as the party has achieved compliance.

(4) The Governor may apply to any circuit court for appropriate equitable relief against any person who violates or fails to carry out an executive order or directive under ORS 176.750 to 176.815. [1974 s.s. c.5 §13]