

DRAFT - STILL IN THE MAKING

**Reference Data Pursuant To
Forming A New Oregon County
PERTINENT LAWS (EXTRACTION)**

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Relevant Law

Oregon Constitution

The following were downloaded from: <http://www.leg.state.or.us/orcons/orcons.html> which provides a reasonably current edition with supplemental changes of the state level pertinent laws. A full index is provided in a PDF at: <http://www.leg.state.or.us/orcons/orindex.pdf> that is very useful.

OC Article VI — Administrative Department *{County Elected Officials}*

Section 6. County Officers. There shall be elected in each county by the qualified electors thereof at the time of holding general elections, a county clerk, treasurer and sheriff who shall severally hold their offices for the term of four years.

Section 7. Other officers. Such other county, township, precinct, and City officers as may be necessary, shall be elected, or appointed in such manner as may be prescribed by law.—

Section 8. County officers' qualifications; location of offices of county and city officers; duties of such officers. Every county officer shall be an elector of the county, and the county assessor, county sheriff, county coroner and county surveyor shall possess such other qualifications as may be prescribed by law. All county and city officers shall keep their respective offices at such places therein, and perform such duties, as may be prescribed by law.

OC Article XI — Corporations and Internal Improvements *{resulting property tax}*

Section 11. Property tax limitations on assessed value and rate of tax; exceptions.

(3) (d) If two or more local taxing districts seek to consolidate or merge, the limit on the rate of ad valorem property tax to be imposed by the consolidated or merged district shall be the rate that would produce the same tax revenue as the local taxing districts would have cumulatively produced in the year of consolidation or merger, if the consolidation or merger had not occurred.

(e) (A) If a local taxing district divides, the limit on the rate of ad valorem property tax to be imposed by each local taxing district after division shall be the same as the local taxing district's rate limit under paragraph (b) of this subsection prior to division.

(B) Notwithstanding subparagraph (A) of this paragraph, the limit determined under this paragraph shall not be greater than the rate that would have produced the same amount of ad valorem property tax revenue in the year of division, had the division not occurred.

(10) (a) As used in this section:

(A) “Improvements” includes new construction, reconstruction, major additions, remodeling, renovation and rehabilitation, including installation, but does not include minor construction or ongoing maintenance and repair.

(B) “Ad valorem property tax” does not include taxes imposed to pay principal and interest on bonded indebtedness described in paragraph (d) of subsection (11) of this section.

(b) In calculating the addition to value for new property and improvements, the amount added shall be net of the value of retired property.

(11) For purposes of this section and for purposes of implementing the limits in section 11b

of this Article in tax years beginning on or after July 1, 1997:

(a) (A) The real market value of property shall be the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller, each acting without compulsion in an arm's length transaction occurring as of the assessment date for the tax year, as established by law.

(B) The Legislative Assembly shall enact laws to adjust the real market value of property to reflect a substantial casualty loss of value after the assessment date.

(b) The \$5 (public school system) and \$10 (other government) limits on property taxes per \$1,000 of real market value described in subsection (1) of section 11b of this Article shall be determined on the basis of property taxes imposed in each geographic area taxed by the same local taxing districts.

(c) (A) All property taxes described in this section are subject to the limits described in paragraph (b) of this subsection, except for taxes described in paragraph (d) of this subsection.

(B) If property taxes exceed the limitations imposed under either category of local taxing district under paragraph (b) of this subsection:

(i) Any local option ad valorem property taxes imposed under this subsection shall be proportionally reduced by those local taxing districts within the category that is imposing local option ad valorem property taxes; and

(ii) After local option ad valorem property taxes have been eliminated, all other ad valorem property taxes shall be proportionally reduced by those taxing districts within the category, until the limits are no longer exceeded.

(C) The percentages used to make the proportional reductions under subparagraph (B) of this paragraph shall be calculated separately for each category.

(d) Bonded indebtedness, the taxes of which are not subject to limitation under this section or section 11b of this Article, consists of:

(A) Bonded indebtedness authorized by a provision of this Constitution;

(B) Bonded indebtedness issued on or before November 6, 1990; or

(C) Bonded indebtedness:

(i) Incurred for capital construction or capital improvements; and

(ii) (I) If issued after November 6, 1990, and approved prior to December 5, 1996, the issuance of which has been approved by a majority of voters voting on the question; or

(II) If approved by voters after December 5, 1996, the issuance of which has been approved by a majority of voters voting on the question in an election that is in compliance with the voter participation requirements in subsection (8) of this section.

OC Article XV — Miscellaneous *{minimum county area and population}*

Section 6. Minimum area and population of counties. No county shall be reduced to an area of less than four hundred square miles; nor shall any new county be established in this State containing a less area, nor unless such new county shall contain a population of at least twelve hundred inhabitants.

Oregon Revised Statutes (provided via state's web site)

The following were downloaded from: <http://landru.leg.state.or.us/ors/> which provides the relatively most current edition and supplemental changes of the state level pertinent laws. The chapter titles are available at <http://landru.leg.state.or.us/ors/orstc.htm> . {Extract accomplished in May 2011.}

ORS 201 — Boundaries of Counties

- 201.005 “Boundary of the state” defined
- 201.020 Benton County
- 201.100 Douglas County
- 201.200 Lane County
- 201.210 Lincoln County
- 201.370 Boundaries of counties bordering Pacific Ocean

201.005 “Boundary of the state” defined. As used in this chapter, “boundary of the state” or similar words means the boundary of Oregon described in section 1 of the Act of Congress admitting Oregon into the union, approved February 14, 1859 (11 Stat. 383), as modified by the Oregon-Washington Columbia River Boundary Compact set forth in ORS 186.520.

201.020 Benton County.

(1) The boundary of Benton County is as follows:

(b) Beginning at a point on the Benton and Lincoln County boundary line which is the northeast corner of section 13, township 14 south, range 9 west, Willamette Meridian; thence west a distance of approximately one mile to the section corner common to sections 11, 12, 13 and 14, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately one mile to the section corner common to sections 13, 14, 23 and 24, township 14 south, range 9 west, Willamette Meridian; thence west a distance of approximately four miles to the section corner common to sections 17, 18, 19 and 20, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately two miles to the section corner common to sections 29, 30, 31 and 32, township 14 south, range 9 west, Willamette Meridian; thence east a distance of approximately two miles to the section corner common to sections 27, 28, 33 and 34, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately two and one-fourth miles to the Lane and Lincoln County boundary along the one-sixteenth section line in sections 10, 11 and 12 in township 15 south, range 9 west, Willamette Meridian; thence east to the boundary lines corner common to Lincoln, Benton and Lane Counties; thence north a distance of approximately five and one-fourth miles to the place of beginning.

(c) The southern boundary of Benton County commences in the middle of the channel of the Willamette River at a point where a line running west will pass three miles south of the ford on Long Tom (near Rowland Hinton’s field); thence running due west to a monument set on the present county boundary between Lane and Benton Counties, which is 14.96 chains north of the quarter section corner between sections 11 and 12, township 15 south, range 6 west, Willamette Meridian; thence south to the quarter corner between sections 11 and 12, township 15 south, range 6 west; thence westerly on the quarter line through townships 6 and 7 west, to the quarter corner on the west side of section 7, township 15 south, range 7 west; thence south to the quarter corner on the east side of section 12, township 15 south, range 8 west; thence westerly on the quarter section line through township 15 south, range 8 west, to the west line of section 7 of such township.

Note: For description of areas, parts of which were once encompassed by the area described in 201.020 (1)(a) but that now form parts of Coos, Curry, Douglas, Jackson, Josephine, Lane and Lincoln Counties, see, respectively, 201.060, 201.080, 201.100, 201.150, 201.170, 201.200 and 201.210.

201.100 Douglas County. *The southern boundary of Douglas County is as follows: Beginning at the southeast corner of Coos County, which point is the east quarter corner of section 13 of township 32 south, range 10 west of the Willamette Meridian; thence due south to a point on the summit of the ridge dividing the waters of the Rogue River from the Umpqua River, which point is the southwest corner of Douglas County; thence east along the ridge to the divide forming the eastern tributaries of John Mule Creek; thence south to the southwest corner of section 36, township 32 south, range 9 west; thence east one mile; north one mile; east one-half mile; south one-fourth mile; east one-half mile; south three-fourths mile; east five miles to the range line between townships 7 and 8 west; thence south one-half mile; east one-half mile; north one-fourth mile; east one-fourth mile; south three-fourths mile; east one-fourth mile; south one-half mile; east one mile; south one-half mile; east two and one-half miles; south one-half mile; east one and one-half miles; south one-fourth mile; east one-half mile; north one-fourth mile; east one-half mile; north one-half mile; east one mile; north one-fourth mile; east one mile; south one-fourth mile; east one-fourth mile; north one mile; east one and one-half miles; north one mile; east one-fourth mile; south one-half mile; east two miles; south one-fourth mile; east one mile; north one-fourth mile; east one and three-quarters miles; south one-half mile; east one and one-fourth miles; south one and one-half miles; east one mile to the east quarter corner of section 13, township 33 south, range 5 west; thence north one-half mile to the southwest corner of section 7, township 33 south, range 4 west of the Willamette Meridian; thence east one mile to the southeast corner of section 7; thence north one-half mile to the east one-quarter corner of section 7; thence east one-half mile to the center of section 8 of such township and range; thence north one-half mile to the north one-quarter corner of section 8; thence east one-half mile to the northeast corner of section 8; thence north one-half mile to the west one-quarter corner of section 4 of such township and range; thence east one-half mile to the center of section four; thence north one-half mile to the north one-quarter corner of section four; thence east one and one-half miles to the southeast corner of section 34, township 32 south, of range 4 west of the Willamette Meridian; thence north to the northeast corner of section 34; thence east seven miles to the southeast corner of section 26, township 32 south, of range 3 west of the Willamette Meridian; thence north one-half mile to the east one-quarter corner of section 26; thence east two miles to the east one-quarter corner of section 30, township 32 south, of range 2 west of the Willamette Meridian; thence north one-half mile to the northeast corner of section 30; thence east one mile to the southeast corner of section 20 in the last-mentioned township and range; thence north one-half mile to the east one-quarter corner of section 20; thence east five miles to the east one-quarter corner of section 19, township 32 south, of range 1 west of the Willamette Meridian; thence north one-half mile to the northeast corner of section 19; thence east three miles to the southeast corner of section 15 in the last-mentioned township and range; thence north one mile to the northeast corner of section 15; thence east one-half mile to the south one-quarter corner of section 11 of the last-mentioned township and range; thence north one mile to the north quarter corner of section 11; thence east one-half mile to the southeast corner of section 2 of the last-mentioned township and range; thence north to the northeast corner of section 2; thence east to the southeast corner of section 31, township 31 south, range 1 east; thence north one mile to northwest corner section 32; thence east one mile to northeast corner section 32; thence north one mile to northwest corner section 28; thence east one mile to northeast corner section 28; thence north one mile to northwest corner section 22; thence east one mile to northeast corner section 22; thence north one mile to northwest corner section 14; thence east two miles to northeast corner section 13; all in township 31 south, range 1 east; thence north one mile to northwest corner section 7; thence east two miles to northeast corner section 8; thence north one mile to northwest corner section 4; thence east one mile to northeast corner section 4, township 31 south, range 2 east; thence north one mile to northwest corner section 34; thence east one mile to northeast corner section 34; thence north one mile to northwest corner section 26, township 30, range 2 east; thence east five miles to southwest corner of section 22; thence north one mile to northwest corner section 22; thence east one mile to northeast corner section 22; thence north one mile to northwest corner section 14; thence east one mile to northeast corner section 14; thence north one mile to northwest corner section 12, township 30 south, range 3 east; thence east one mile to southwest corner section 6; thence north one mile to northwest corner section 6; thence east on township line between townships 29 and 30 south, to the range line between ranges 4 and 5 east; thence north along such range line to parallel 43 degrees, 4 minutes*

north latitude, the same being the northern boundary of Crater Lake National Park; thence east along such parallel, approximately ten and one-half miles to the summit of the Cascade Range.

Note: In addition to the boundary described in 201.100, the western boundary of Douglas County is in part the eastern boundary of Coos County (see 201.060) and in part the Pacific Ocean. **The northern boundary of Douglas County is the southern boundary of Lane County (see 201.200).** The western boundary of Douglas County is the summit of the Cascade Range adjacent to a part of the western boundary of Klamath County (see 201.180).

201.200 Lane County.

(1) The boundary of Lane County is as follows:

(a) All that portion of Oregon lying south of Linn County, and south of so much of Benton County as is east of Umpqua County.

(b) The southern boundary of Lane County is as follows: Beginning at a point in the present boundary line between Lane and Klamath Counties on the summit of the Cascade Range, at a point due east of the southeast corner of township 24 south, range 5 east of the Willamette Meridian; thence west on the township line to the Willamette Meridian, at the southeast corner of township 24 south, range 1 west; thence north seven and one-half miles to the east one-quarter section corner of section 25, township 23 south, range 1 west of the Willamette Meridian; thence west on the one-half section line 18 miles to the west one-quarter section corner of section 30, township 23 south, range 3 west of the Willamette Meridian; thence north four and one-half miles to the southeast corner of township 22 south, range 4 west of the Willamette Meridian; thence west on the township line one and one-half miles to the south one-quarter corner of section 35, township 22 south, range 4 west of the Willamette Meridian; thence north 12 miles to the north one-quarter corner of section 2, township 21 south, range 4 west of the Willamette Meridian; thence west ten and one-half miles to the southwest corner of township 20 south, range 5 west of the Willamette Meridian; thence north two miles to the southeast corner of section 24, township 20 south, range 6 west of the Willamette Meridian; thence west six miles to the southwest corner of section 19, township 20 south, range 6 west of Willamette Meridian; thence north one and one-half miles to the east one-quarter corner of section 13, township 20 south, range 7 west of the Willamette Meridian; thence west three miles to the west one-quarter corner of section 15, township 20 south, range 7 west of the Willamette Meridian; thence north two and one-half miles to the northwest corner of section 3, township 20 south, range 7 west of the Willamette Meridian; thence west on township line to northwest corner of township 20 south, range 7 west; thence north to the southeast corner of section 24, township 19 south, range 8 west of the Willamette Meridian; thence west two miles to the southwest corner of section 23, township 19 south, range 8 west of the Willamette Meridian; thence north two miles to the southwest corner of section 11, township 19 south, range 8 west of the Willamette Meridian; thence west to the northwest corner of section 16, township 19 south, range 8 west of the Willamette Meridian; thence north one mile to the northwest corner, section 9, township 19 south, range 8 west of the Willamette Meridian; thence west on section line two miles to the northwest corner of section 7, township 19 south, range 8 west of Willamette Meridian; thence north to the northeast corner of section 12, township 19 south, range 9 west of the Willamette Meridian; thence west six miles on the section line to the southwest corner section 6, township 19 south, range 9 west of the Willamette Meridian; thence south on township line to northeast corner of section 12, township 19 south, range 10 west of the Willamette Meridian; thence west on section line one-quarter mile; thence south one-half mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile to the southwest corner of section 12, township 19 south, range 10 west; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-half mile; thence south one-quarter mile; thence west one-half mile; thence south one-quarter mile; thence west one-quarter mile to the corner common to sections 15 and 22, township 19 south, range 10 west; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile, thence west three-quarters mile; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile to the northeast corner of section 29, township 19 south,

range 10 west; thence west one mile to the northwest corner of section 29; thence south to the southeast corner of section 31, township 19 south, range 10 west of the Willamette Meridian; thence west to the northeast corner of township 20 south, range 11 west of the Willamette Meridian; thence south one-half mile to the east one-quarter corner of section 1, township 20 south, range 11 west of the Willamette Meridian; thence west on the half-section line to the Pacific Ocean.

(c) Beginning at a point on the left bank of the Willamette River where the south line of section 16, in township 15 south, range 4 west of the Willamette Meridian intersects the left bank, that point being 58 links east of the one-quarter section corner on the south line of section 16; thence running along the meanders of the left bank north 49 degrees east 4.50 chains; thence north 10 degrees east 14.50 chains; thence north 28 degrees west 13.50 chains; thence north 7 degrees west 28.70 chains; thence north 15 degrees east 7.30 chains; thence north 30 degrees east 3.50 chains; thence north 59 degrees east 7.85 chains; thence north 82 degrees east 4.50 chains; thence north 40 degrees east four chains; thence north 10 degrees east 4.50 chains to the meander corner on the north line of section 16 where the section line intersects the left bank of the river, that point being south 89 degrees 30 minutes east 14.18 chains distant from the one-quarter section corner on the north line of section 16 in such township and range; thence south 89 degrees 30 minutes east four chains more or less to the center of the main channel of the Willamette River; thence following the center of the main channel of the river in a southerly direction up stream to the south line of section 16; thence north 89 degrees 30 minutes west 10 chains more or less to the point of beginning, and containing 120 acres more or less.

(2) When the Willamette River serves as the boundary between Linn and Lane Counties in subsection (1) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225

Note: *In addition to the boundary described in 201.200, the eastern boundary of Lane County is the summit of the Cascade Range adjacent to parts of the western boundaries of Deschutes County (see 201.090) and Klamath County (see 201.180). The northern boundary of Lane County is the southern boundaries of Linn (see 201.220), Benton (see 201.020), and Lincoln (see 201.210) Counties. The western boundary of Lane County is the Pacific Ocean.*

201.210 Lincoln County. *The boundary of Lincoln County is as follows: Beginning at the northwest corner of Siletz Indian Reservation; thence east to the Polk County line; thence south to the southeast corner of section 36, township 9 south, range 9 west, Willamette Meridian; thence east one mile to the northeast corner of section 6, township 10 south, range 8 west; thence south one mile and 15.45 chains to the Polk County line; thence east to the Benton County line; thence south to the southeast corner of township 10 south, range 8 west; thence east to the northeast corner of township 11 south, range 8 west, Willamette Meridian; thence south along the range line to the southeast corner of section 13, township 13 south, range 8 west; thence west six miles to the northwest corner of section 19, township 13 south, range 8 west; thence south to the southeast corner of section 36, township 13 south, range 9 west; thence east to the northeast corner of section 1, township 14 south, range 9 west; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 12, township 15 south, range 9 west; thence west along the one-sixteenth section line to the west line of section 7, township 15 south, range 10 west; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 12, township 15 south, range 11 west; thence west along the one-sixteenth line to the west line of section 7, township 15 south, range 11 west; thence south to the southeast corner of the northeast quarter of the northeast quarter of section 12, township 15 south, range 12 west; thence west to the Pacific Ocean; thence north along the Pacific Ocean to the place of beginning.*

201.370 Boundaries of counties bordering Pacific Ocean.

(1) The boundaries of all counties bordering on the Pacific Ocean extend to the western boundary of the state as defined in the Oregon Constitution.

(2) Notwithstanding the provisions of subsection (1) of this section, planning for ocean resources and for submerged and submersible lands of the territorial sea shall be accomplished as set forth in ORS 196.405 to 196.515.

ORS 202 — Establishment of New Counties; Change of Boundaries

- 202.010 “County court” defined
- 202.020 Petitions to form new counties or change existing county boundaries
- 202.030 Election order; procedure; ballot title
- 202.040 Commissioners to arrange terms on proposal to change boundaries
- 202.050 Certification of election to Secretary of State
- 202.060 Issuance of proclamation
- 202.070 Operation and effect of proclamation
- 202.080 Boundaries to conform to established legal subdivisions; filing boundary change with county assessor and Department of Revenue
- 202.090 Validity of election
- 202.100 Appointment of county judge and commissioners for new county
- 202.110 Appointment of other county officers
- 202.120 Locating county seat
- 202.130 General laws governing county court
- 202.140 Compensation of members of county court
- 202.150 Disposition of public property, records and tax liens
- 202.160 Transcription of real estate, court and tax records
- 202.170 Transfer of records
- 202.180 Transfer of electors’ registration cards and election records
- 202.190 Payment of moneys due from state
- 202.200 Apportionment of state taxes payable
- 202.210 Ascertainment, apportionment and assumption of indebtedness
- 202.220 Disposition of special funds and property
- 202.230 Distribution of funds in excess of indebtedness
- 202.240 Payment of apportioned indebtedness
- 202.250 Authority to collect revenues
- 202.260 Redistricting of county and filling of vacancies
- 202.270 Renumbering of school and road districts
- 202.280 Validity of school district bonds
- 202.290 Judicial district affiliation
- 202.300 Appointment and holding of terms of circuit court
- 202.310 Venue of actions and proceedings
- 202.320 Place of return of processes, notices, bonds and other papers

202.010 “County court” defined. As used in this chapter, unless the context requires otherwise, the term “county court” includes board of county commissioners.

202.020 Petitions to form new counties or change existing county boundaries. Whenever it is desired to form a new county out of one or more then existing counties or to change the boundaries of then existing counties, a petition praying for the formation of such new counties or for the change of the boundaries of then existing counties, describing the territory proposed to be incorporated in the new county or changed from one county to another, together with the name of the proposed new county, if for that purpose, or the name of the then existing county to be eliminated, if any county would be eliminated by the change of boundaries as proposed, signed by a majority of the electors registered in the territory to be em-

braced in the new county or registered in the territory to be embraced in the change of county boundaries, shall be presented to the county court of each county to be affected by the proposed formation of a new county. Where any existing county would be eliminated by such change of county boundaries the petition shall be signed by not less than 40 percent of the electors of the county to be eliminated.

202.030 Election order; procedure; ballot title.

(1) If the county court finds that the proposed changes will not result in any new or remaining county having an assessed valuation, area or population less than required by the Constitution of this state, the county court shall call an election on a date specified in ORS 203.085 for the purpose of submitting the question of:

(a) The formation of the new county to the electors registered within the limits of the proposed new county;

(b) The elimination of an existing county to the electors of each county affected by the change; or

(c) The change in county boundaries to the electors of each county affected by the change when the change does not result in the formation of a new county.

(2) Except as provided in ORS 202.050 and 202.060, the election shall be conducted in accordance with ORS chapters 246 to 260.

(3) The ballot title for determination of a question submitted under this section shall be prepared as provided in ORS 250.185.

202.040 Commissioners to arrange terms on proposal to change boundaries.

(1) In case the petition provided for in ORS 202.020 is for a change in the boundaries of existing counties, but not for the elimination of any then existing county, the county courts of the counties concerned shall appoint two commissioners each to act with the commissioners of the other counties and arrange the terms in respect to assumption of liabilities and division of assets among the counties concerned, upon which such change shall be made.

(2) If within 30 days after the appointment of the commissioners they have not agreed upon terms, the Governor, upon request of the county court of any county concerned, shall appoint commissioners equal in number to one-half the commissioners already appointed by the counties, who shall meet with such commissioners and draft terms.

(3) Within 60 days thereafter a majority of the commissioners may report to respective county courts a plan for division, which, in addition to the matters mentioned in subsection (1) of this section, may define the territory embraced in the proposed changes.

(4) When made within such time the plan shall be reported by the commissioners to the respective county courts, and if approved by a vote, as provided in ORS 202.030 and 202.060, it shall become a compact between and among such counties, binding upon all.

202.050 Certification of election to Secretary of State. The county clerk in each county in which an election under ORS 202.030 is held shall certify to the Secretary of State a copy of the summary of votes cast on the question of creating a new county or changing boundaries. The county clerk also shall certify to the Secretary of State the name, territorial contents and boundaries of the new county, or the names, territorial contents and boundaries of the counties affected by the change in boundaries.

202.060 Issuance of proclamation.

(1) The Governor shall issue a proclamation declaring a new county created if an election for the purpose of establishing a new county is held and a majority of all electors registered within the limits of

the proposed new county voted at the election in favor of the creation of the new county.

(2) The Governor shall issue a proclamation declaring the change in county boundaries if an election for the purpose of changing county boundaries is held, and if a majority of all the electors of each of the counties to be affected by the change in boundaries voted in favor of the proposed change in county boundaries.

(3) If a county is eliminated pursuant to a boundary change under subsection (1) or (2) of this section, the Governor shall declare in the proclamation what counties were eliminated by the change.

202.070 Operation and effect of proclamation.

(1) If the election was for the purpose of establishing a new county, it thereafter shall be a county for all civil, military and other purposes.

(2) If the election was for the purpose of changing county boundaries, the boundaries of the county shall be changed to conform to the description furnished by the county clerk in the certificate provided in ORS 202.050. If such change in county boundaries resulted in the elimination of any existing county, thereafter the eliminated county shall cease to function and the authority of its officers shall cease for all purposes other than the auditing and paying of all outstanding claims against such county and the safekeeping of all county property until proper transfers and assignments of the same have been made.

(3) If the election was for the purpose of changing county boundaries, the change shall take effect within 30 days after the Governor issues the proclamation provided for in ORS 202.060 and the territory taken from any county and added to another county by reason of the change shall become a part of the county to which it has been added and for all purposes shall be deemed a portion thereof and be governed by the laws of this state relating to counties.

202.080 Boundaries to conform to established legal subdivisions; filing boundary change with county assessor and Department of Revenue.

(1) In the establishment of any proposed new county and in the establishment of the boundaries of counties in which a change is proposed, the same shall be made to conform to the established government legal subdivisions.

(2) For purposes of ad valorem taxation, a boundary change must be filed in final approved form with the county assessor and the Department of Revenue as provided in ORS 308.225.

202.090 Validity of election. Refusal or neglect of any official to perform duties in connection with any election under this chapter shall not affect the validity of the election.

202.100 Appointment of county judge and commissioners for new county.

(1) Not later than the 30th day after the Governor issues the proclamation provided for in ORS 199.790 or 202.060, the Governor shall appoint three electors, who must be residents of the new county so formed, to serve as county judge and commissioners for the new county. When the persons appointed accept and qualify for their offices under ORS 204.016 and 204.020, the new county shall have existence as a county and shall be governed by the laws of this state relating to counties. The persons appointed shall serve until the first Monday in January after the general election, or, if applicable, after the election specified in ORS 249.088, at which their successors are elected.

(2) At the next practicable general election, or, if applicable, at the next practicable election specified in ORS 249.088, following the appointment, successors to the persons appointed under this section shall be elected. The candidate receiving the highest number of votes shall be elected county judge. If the office of county judge has judicial functions, the candidate shall be elected to a six-year term. If the office of county judge has no judicial functions, the candidate shall be elected to a four-year term. The candidate receiving the second highest number of votes shall be elected to a four-year term as commissioner. The candidate receiving the third highest number of votes shall be elected to a two-year term as commissioner.

(3) The successors shall take office on the first Monday in January next following their election.

(4) At each general election, or, if applicable, at each election specified in ORS 249.088, following the election at which the first board is elected, a successor shall be elected to fill any expiring term.

202.110 Appointment of other county officers.

(1) The county judge and the county commissioners appointed under ORS 202.100, acting as a county court, shall appoint a sheriff, a county clerk, a county assessor, a county treasurer and a county surveyor. An officer appointed under this subsection must be an elector of the new county and must accept and qualify for the office under ORS 204.016 and 204.020 before beginning service. The officers, except the county surveyor, appointed under this subsection shall serve until the first Monday in January after the election at which their successors are elected. The county surveyor appointed pursuant to this section serves for the term specified in ORS 204.010.

(2) At the next practicable general election following the appointment, successors to the county officers, except the county surveyor, appointed under subsection (1) of this section shall be elected. The successors shall take office on the first Monday in January next following their election.

(3) All justices and constables in office within the boundaries of any new county shall continue to hold office in such new county during the remainder of their term, and shall give bonds to the new county of the same amount and in the same manner as previously given to the original county in which they were elected or appointed.

(4) At each general election following the general election at which the first county officers under this section are elected, a successor shall be elected to fill any expiring term.

202.120 Locating county seat.

(1) The county court of the new county may temporarily fix the county seat, and such location shall remain the county seat until the first general election thereafter, when the electors of the new county are empowered to vote for and select the place of county seat in the manner provided by law.

(2) Immediately after the selection of the county seat either by the county court or by the canvass of the returns of votes cast at the election for that purpose, the county court shall issue its proclamation and publish the same in a newspaper published in the new county, if there is one, and if not by posting a copy of the proclamation in each election precinct in the county announcing the selection and location of the county seat.

202.130 General laws governing county court. In all matters not specially provided for in this chapter, the county court appointed as provided in ORS 202.100 shall be governed by the laws of this state then existing in relation to counties.

202.140 Compensation of members of county court. The members of the county court of any new county organized under this chapter, while in the discharge of their duties as provided in this chapter, shall receive the same compensation as is allowed by law for the performance of their ordinary official duties.

202.150 Disposition of public property, records and tax liens.

(1) All public buildings, records or other public property within the limits of the original county shall remain and be the property of such original county; but, if the election is held for change in county boundaries, and any public building belonging to the county is located in the territory affected by the change of boundaries, the county acquiring the new territory shall pay the county from which such territory is taken the value of such public building.

(2) If any county is eliminated by the change in county boundaries, all public buildings and real property of the eliminated county and all liens for unpaid taxes become the property of the county ac-

quiring the territory where the property is situated, and all public records and documents and all other property of every kind belonging to the eliminated county become the property of the county of which the largest area of the eliminated county becomes a part.

202.160 Transcription of real estate, court and tax records.

(1) When a new county is organized in whole or in part from any existing county it shall be the duty of the county court of the new county to cause to be transcribed in the proper books all the records of deeds, mortgages and other instruments, probate records, court records and tax records relating to or affecting real estate in the new county. The cost of transcription shall be paid by the new county.

(2) When the election has been for a change in county boundaries, the county court of the county to which territory has been added shall cause to be transcribed in the proper books all the records of deeds, mortgages and other instruments, probate records and court records and tax records affecting or relating to real estate in such territory.

(3) Any person authorized by the county court to transcribe records pursuant to subsection (1) or (2) of this section shall have free access at all reasonable times to the original records for the purpose of transcribing the same. All records so transcribed shall have the same force and effect in all respects as original records.

(4) Whenever the boundaries of an existing county are changed so as to include territory theretofore within the boundaries of another county, the county court of the county to which territory has been added shall, within 60 days after the taking effect of the Act adding such territory, procure or cause to be procured, properly attested copies of the records of any county in which the lands were theretofore situated, affecting the title to the real estate within the additional territory, and have the same recorded in the records of the county. Thereafter such records shall be recognized and become a part of the official records of the county in which the same shall be so recorded, and such official records or duly certified copies thereof may be introduced in evidence with the same force and effect as the original records of which they are copies.

202.170 Transfer of records.

(1) When a new county is organized in whole or in part from any existing county and any record or any volume of any records of the county from which the new county is created relate wholly to property located within the new county, such records or volumes thereof shall be transferred by the officer of the old county who is in charge thereof to the officer of the new county whose duty it is to make and keep such records and take a receipt therefor. The receipt shall be filed by the officer receiving the same and shall be a sufficient accounting by and discharge to such officer for the disposition of such records. When the records have been so transferred, they shall be considered records of the county in which the property is then situated. Such records shall not be transcribed as in the case of records containing deeds, mortgages and other instruments relating to property in both counties.

(2) In the event of the elimination of any county in a change of county boundaries, all records of the eliminated county shall immediately be transferred to the county of which the largest area of the eliminated county becomes a part and be original records of such county.

202.180 Transfer of electors' registration cards and election records.

(1) The county court of a new county shall:

(a) Cause all the registration cards of electors living in the new county to be segregated from the registration cards on file in the counties from which the new county is created;

(b) Cause the registration to be delivered to the county clerk of the new county; and

(c) Provide for the transfer to the county clerk of the new county a list of electors and other election records, relating only to precincts and electors within the new county.

(2) The county clerk of the new county shall arrange and install the registration cards received under subsection (1) of this section in the manner provided by law. The registration cards and records constitute registration of the electors whose names appear thereon in the new county.

(3) The list of electors and other registration and election records are records of the new county.

202.190 Payment of moneys due from state. All moneys due from the State of Oregon to a new county shall be paid to the county treasurer of the new county in the manner and at the same time that such moneys are paid to the other counties of the state. All moneys due from the state to a county from which any territory is taken by reason of change in the boundaries thereof shall be paid to the treasurer of the two counties affected in proportion to the change in the territory affected by the change in boundaries.

202.200 Apportionment of state taxes payable. A new county's proportion of the state taxes shall be determined as follows:

(1) If the new county is formed from one county, the new county shall pay its pro rata share of the amount of state taxes which the county from which it is formed is to pay for that year, and for each succeeding year thereafter until otherwise provided for, based upon the ratio that the taxable valuation of the property in the new county bears to the taxable valuation of the property of the original county before the new county was formed.

(2) If the new county is formed from more than one county, the new county shall pay its pro rata share of the amount of state taxes which each of the counties from which it is formed is to pay for that year, and for each succeeding year thereafter until otherwise provided for, based upon the ratio that the taxable valuation of the property in the area taken from each original county bears to the taxable valuation of the property in each original county before the new county was formed.

(3) In the event the election was for the purpose of a change in county boundaries and a portion of the territory in one county has been added to another county, the state taxes shall be adjusted in the same manner and upon the same basis as in the formation of new counties from more than one county.

202.210 Ascertainment, apportionment and assumption of indebtedness.

(1) Any new county organized under this chapter shall assume and pay, as provided in this section, a just proportion of the indebtedness of the counties from which it is segregated, based upon the last assessed valuation of the original counties, and in proportion that the valuation within the segregated portion bears to the aggregate valuation of the whole original counties.

(2) In the event of a change in boundaries and the addition of a portion of the territory of one county to another county, the county to which such territory is added shall assume and pay, as provided in this section, a just proportion of the indebtedness of the county from which the territory is segregated based upon the last assessed valuation of the county from which the territory is segregated, in proportion that the valuation within the segregated portion bears to the aggregate valuation of the original county from which the territory is taken.

(3) It shall be the duty of the county courts of both the new county organized under this chapter and the counties from which the new county is segregated, or the county courts of the two counties in which a change of boundaries has been effected, to meet together at the county seat of the new county or at the county seat of the county from which such territory is taken by a change of boundaries, on the third Monday in the sixth month following the date of the proclamation of the Governor, as provided for in ORS 202.060. They shall ascertain, as near as may be, the total outstanding indebtedness of the original counties on the first day of January following the election, and from the total indebtedness shall make the following deductions:

(a) The amount of all dues for rents.

(b) The reasonable value of all public buildings owned by and remaining within the

limits of the original counties.

(c) The amount of public funds on hand and belonging to the original counties on the day for which its outstanding indebtedness is ascertained by the joint board of county courts, and not belonging to the special funds mentioned in ORS 202.220.

(4) The amount remaining after such deductions have been made shall, for the purposes and as a basis for the settlement, be the amount which the new county or the county acquiring territory by a change in boundaries, shall pay as a portion of, in the proportions specified. Such joint courts shall ascertain and fix the amount the new county shall assume and pay to the counties from which it is segregated, and the amount the county acquiring the new territory by reason of change in boundaries shall assume and pay to the county from which such territory is segregated.

(5) If by a change in county boundaries, an existing county has been eliminated, the county courts of the counties to which the territory formerly constituting the eliminated county has been added shall meet with the court of the eliminated county at the county seat of the eliminated county on the third Monday of the month following the date of the proclamation of the Governor, and shall determine as provided in this section the amount of any net outstanding indebtedness of the eliminated county. Each county to which territory from the eliminated county has been added shall assume and pay its proportional part of the indebtedness of the eliminated county to the county to which the largest area of the eliminated county has been added and such county shall pay off all outstanding indebtedness of the county eliminated. However, the territory of the county eliminated shall be responsible for its own net indebtedness at the time of elimination of the county and the property therein shall be subject to such further tax levies from year to year as may be necessary to retire the outstanding indebtedness of the eliminated county as the same shall come due, but such territory shall not become liable for any outstanding indebtedness of any county to which a portion or all of the eliminated county shall have been added.

202.220 Disposition of special funds and property. All moneys belonging to special funds, such as fire, school, roads and other funds and property owned by the districts within the boundaries of the new county organized under this chapter or owned by the districts in the territory affected by the change in boundaries segregated under the provisions of this chapter on hand at the time of the settlement provided for in ORS 202.210, shall be turned over in full by the county court of the original county to the county court of the new county, or to the county court of the county acquiring the new territory, and shall be receipted for by the latter and placed to the credit of the districts of the county to which the property belonged.

202.230 Distribution of funds in excess of indebtedness.

(1) Any county in which the amount of public funds on hand at the time of the settlement provided for in ORS 202.210 exceeds the total of its outstanding indebtedness shall, after making the deductions provided for in ORS 202.210 (3), from the amount of such public funds on hand pay over to the county segregated from it and organized under this chapter or to the county acquiring territory under a change of boundaries, a just proportion of such funds based upon the next last assessed valuations of the original county prior to the date of such segregations and in the proportion which the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original counties. The county courts shall meet as provided in ORS 202.210 and ascertain the amount so to be paid.

(2) The county court of the original counties shall issue warrants for such amount, payable immediately to the treasurer of the new county organized under this chapter, or to the treasurer of the county acquiring new territory, and the amounts so received by the latter shall be placed to the credit of the proper funds of the county.

202.240 Payment of apportioned indebtedness. The amount of indebtedness of a county organized or acquiring new territory as provided in this chapter, as ascertained by the joint board of county courts, shall be paid to the county from which it segregates or from which the territory is taken, in the warrants of the new county thus segregated or the warrants of the county acquiring new territory, as the case

may be.

202.250 Authority to collect revenues. The authority of any county from which a portion is segregated under this chapter, for the collection of revenue within the boundaries of the portion segregated shall cease from the date upon which the two county courts, under the provisions of ORS 202.210, base the settlement between such counties, and all assessments and levies made by the authority of the county from which such territory is segregated, by its officers in the lawful performance of their official duties, affecting any of the territories embraced in the boundaries of the new county or territory segregated by change in boundaries shall remain the same and shall be payable to, and be collected by, the lawful authorities of the new county or the lawful authorities of the county acquiring such new territory.

202.260 Redistricting of county and filling of vacancies. The county courts of all the counties affected by the formation of the new county, or by a change in county boundaries, shall immediately after such segregations, redistrict their county into districts provided for by law, and shall fill the vacancies occasioned by such segregation in the manner provided for by law for filling vacancies.

202.270 Renumbering of school and road districts. School districts and road districts within the counties affected by proceedings under this chapter, shall be renumbered so as to make their number in each county run consecutively, and the number of existing school districts may when necessary be changed to effect that purpose.

202.280 Validity of school district bonds. The validity of bonds issued by any school district prior to the division of any county or prior to the change of county boundaries, under this chapter, shall in no wise be affected by such division nor by the renumbering of the school districts that may have issued such bonds.

202.290 Judicial district affiliation. Any county organized under the provisions of this chapter shall, as soon as its organization is completed, constitute a judicial subdivision of the judicial district from which its largest area was taken upon the organization of the new county. The territory segregated by a change of boundaries shall belong to the same judicial district as that the county to which it has been added belonged to at the time of the segregation.

202.300 Appointment and holding of terms of circuit court. The judge of the judicial district of which the county organized under this chapter is made a legal subdivision under the provisions of ORS 202.290 shall appoint and hold at least two terms of the circuit court each year at the county seat of such county until such terms are otherwise provided for by law.

202.310 Venue of actions and proceedings. In all actions or proceedings, civil or criminal, for the prosecution of a crime committed or a cause of action arising within the boundaries of any judicial subdivision created under the provisions of this chapter, and properly triable in such subdivision under the provisions of the civil and criminal procedure statutes, the venue thereof shall be changed to the new county or to the county to which the territory has been added by the change in boundaries, by order of the court of the judicial district upon payment upon the demand of either party. The demand shall be served upon the opposite party or the attorney of the opposite party, if either can be found in the state, but if neither can be found therein then the change of venue may be made upon filing the demand with the court clerk or court administrator and such change of venue shall have effect in the manner provided by law for the change of venue.

202.320 Place of return of processes, notices, bonds and other papers. All processes, writs, bonds, notices, appeals, recognizances, papers and proceedings in actions changed to a new county under the provisions of this chapter issued and made returnable to the circuit court of the county from which a portion has been segregated or organized prior to the creation of such legal subdivision, shall be considered as made, taken and returnable to the circuit court within the boundaries of the judicial district to which the new county or segregated portion has been added. Such bonds, recognizances and obligations shall be payable to the new county and recoverable in the name of such new county, or payable to or recoverable in the name of the county to which the segregated portion has been added by reason of the change in boundaries.

All papers and certified copies of all proceedings had in such action shall be transmitted by a court clerk or court administrator of the new county or a court clerk or court administrator of the county acquiring new territory by reason of the change in boundaries.

ORS 203 — County Governing Bodies; County Home Rule *{deleted HR section}*

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 - 203.015 Power of county to contract for purchase or lease of real or personal property
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- Organization, powers and duties of board

203.010 General powers of county as body politic and corporate. Each county is a body politic and corporate for the following purposes:

- (1) To sue and be sued;
- (2) To purchase and hold for the use of the county lands lying within its own limits and any personal estate;
- (3) To make all necessary contracts; and
- (4) To do all other necessary acts in relation to the property and concerns of the county.

203.015 Power of county to contract for purchase or lease of real or personal property.

- (1) A county may enter into a contract for the purchase or for the lease with option to pur-

chase of real or personal property when:

(a) The period of time allowed for payment under the contract does not exceed 30 years; and

(b) The county is not obligated to make payments under the contract in any fiscal year unless the county governing body includes such payments in the county's budget for that fiscal year and makes an appropriation therefor.

(2) The powers granted to counties by this section are in addition to any other powers possessed by counties in this state, and this section may not be construed to limit such powers.

203.030 Definition for ORS 203.030 to 203.075. As used in ORS 203.030 to 203.075, "governing body" means the representative body vested with legislative power by statute or charter.

203.035 Power of county governing body or electors over matters of county concern.

(1) Subject to subsection (3) of this section, the governing body or the electors of a county may by ordinance exercise authority within the county over matters of county concern, to the fullest extent allowed by Constitutions and laws of the United States and of this state, as fully as if each particular power comprised in that general authority were specifically listed in ORS 203.030 to 203.075.

(2) The power granted by this section is in addition to other grants of power to counties, shall not be construed to limit or qualify any such grant and shall be liberally construed, to the end that counties have all powers over matters of county concern that it is possible for them to have under the Constitutions and laws of the United States and of this state.

(3) An ordinance adopted by a county governing body that changes the number or mode of selection of elective county officers shall not take effect unless the ordinance is submitted to and approved by the electors of the county at a primary election, general election or election held on the first Tuesday after the first Monday in November of an odd-numbered year. However, an ordinance adopted under this section may not change the mode of selection of a county assessor.

(4) Nothing in this section shall be construed to limit the rights of the electors of a county to propose county ordinances through exercise of the initiative power

203.040 Applicability of ordinances inside city. Except by consent of the governing body or the electors of a city and except in cities not regularly operating as such through elected governmental officials, ordinances adopted under ORS 203.030 to 203.075 in exercise of the police power shall not apply inside an incorporated city.

203.045 Procedure for adopting ordinance; exception by charter or certain statutes.

(1) This section does not apply to a county that prescribes by charter the manner of adopting ordinances for the county or to an ordinance authorized by a statute other than ORS 203.035.

(2) The ordaining clause of an ordinance adopted under ORS 203.035 shall read:

(a) In case of adoption by the county governing body only, "The (name of the governing body) ordains as follows:".

(b) In case of adoption or ratification by the electors of the county, "The People of (name of county) ordain as follows:".

(3) Except as subsections (4) and (5) of this section provide to the contrary, every ordinance of a county governing body shall, before being put upon its final adoption, be read fully and distinctly in open meeting of that body on two days at least 13 days apart.

(4) Except as subsection (5) of this section provides to the contrary, and except ordinances imposing, or providing exemptions from, taxation, an ordinance necessary to meet an emergency may, upon being read first in full and then by title, be adopted at a single meeting of the governing body by unanimous

vote of all its members present, provided they constitute a quorum.

(5) Any reading required by subsection (3) or (4) of this section may be by title only:

(a) If no member of the governing body present at the meeting requests that the ordinance be read in full; or

(b) If, not later than one week before the first reading of the ordinance, a copy of it is provided each member, copies of it are available at the headquarters of the governing body, one copy for each person who requests it, and notice of the availability is given by:

(A) Written notice posted at the courthouse of the county and two other public places in the county; and

(B) Publication at least once in a newspaper of general circulation in the county, designated by the county governing body and published in the county or, if no newspaper is so published, then in one published elsewhere.

(6) An ordinance adopted after being read by title only may have no legal effect if it differs substantially from its terms as it is thus filed prior to the reading, unless each section incorporating such a difference, as finally amended prior to being adopted by the governing body, is read fully and distinctly in open meeting of that body.

(7) Upon the final vote on an ordinance, the ayes and nays of the members of the governing body shall be taken and recorded in the record of proceedings of the body.

(8) Upon the adoption of an ordinance by the governing body in accordance with this section, the chairperson and recording secretary of the body at the session at which the ordinance is adopted shall sign it with the date of its adoption and with their names and titles of office or position.

(9) An ordinance adopted in accordance with this section, if not an emergency ordinance, shall take effect on the 90th day after the date of its adoption, unless it prescribes a later effective date or is referred to the electors of the county. If an ordinance is referred to the electors, it shall take effect only upon the approval of a majority of those voting on the proposed ordinance. An emergency ordinance may take effect immediately upon the date of its adoption.

203.055 Referral of revenue related ordinance. Any ordinance, adopted by a county governing body under ORS 203.035 and imposing, or providing an exemption from, taxation shall receive the approval of the electors of the county before taking effect.

203.060 Judicial review and invalidation of ordinances. Ordinances adopted under ORS 203.030 to 203.075 shall be subject to judicial review and invalidation on account of unreasonableness, procedural error in adoption, or conflict with paramount state law or constitutional provision.

203.065 Penalties; remedies; enforcement; status of nuisance declared by ordinance; disposition of fines.

(1) Subject to ORS 153.025, violation of an ordinance adopted by a county governing body under ORS 203.030 to 203.075 is a Class A violation. By ordinance, a county governing body may establish a specific fine violation as described in ORS 153.015 that provides for a higher fine than established under ORS 153.018 for Class A violations.

(2) The violator of a county ordinance may be prosecuted by the county in the name of the county, or be made the defendant in a civil proceeding by the county seeking redress of the violation.

(3) Every act or thing done, or anything existing within the limits of a county, which is declared by an ordinance of the county adopted under ORS 203.030 to 203.075 to be a nuisance, shall constitute a nuisance and may be regarded as such in all actions, suits and proceedings, unless the ordinance is declared void by a court of competent jurisdiction.

(4) Fines recovered under ORS 203.030 to 203.075 shall be paid to the clerk of the court in which recovery is had. After first deducting court costs in the proceedings, the clerk shall pay the remainder to the treasurer of the county for the general fund of the county.

(5) Any peace officer, as defined by ORS 161.015, may enforce an ordinance adopted under ORS 203.035.

203.075 Payment of assessments in installments; applicable law. When a county governing body orders the construction of a local improvement and levies an assessment for all or part of the cost of the improvement against property benefited by the improvement, if there is a conflict between ORS 223.205 to 223.295, 223.387 to 223.399, 223.405 to 223.485 and 223.770 and a county charter, county ordinance or another statute, the charter, ordinance or other statute shall prevail.

203.077 Camping by homeless on public property; local governments required to develop policy for removal of camps. All municipalities and counties shall:

(1) Develop a policy that recognizes the social nature of the problem of homeless individuals camping on public property.

(2) Implement the policy as developed, to ensure the most humane treatment for removal of homeless individuals from camping sites on public property.

203.079 Required elements of local government policies on camping by homeless.

(1) A policy developed pursuant to ORS 203.077 shall include, but is not limited to, the following:

(a) Prior to removing homeless individuals from an established camping site, law enforcement officials shall post a notice, written in English and Spanish, 24 hours in advance.

(b) At the time that a 24-hour notice is posted, law enforcement officials shall inform the local agency that delivers social services to homeless individuals where the notice has been posted.

(c) The local agency may arrange for outreach workers to visit the camping site where a notice has been posted to assess the need for social service assistance in arranging shelter and other assistance.

(d) All unclaimed personal property shall be given to law enforcement officials whether 24-hour notice is required or not. The property shall be stored for a minimum of 30 days during which it will be reasonably available to any individual claiming ownership. Any personal property that remains unclaimed for 30 days may be disposed of. For purposes of this paragraph, "personal property" means any item that is reasonably recognizable as belonging to a person and that has apparent utility. Items that have no apparent utility or are in an unsanitary condition may be immediately discarded upon removal of the homeless individuals from the camping site. Weapons, drug paraphernalia and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials.

(e) Following the removal of homeless individuals from a camping site on public property, the law enforcement officials, local agency officials and outreach workers may meet to assess the notice and removal policy, to discuss whether the removals are occurring in a humane and just manner and to determine if any changes are needed in the policy.

(2) The 24-hour notice required under subsection (1) of this section shall not apply:

(a) When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring.

(b) In the event of an exceptional emergency such as possible site contamination by hazardous materials or when there is immediate danger to human life or safety.

(3) A person authorized to issue a citation for unlawful camping under state law, administra-

tive rule or city or county ordinance may not issue the citation if the citation would be issued within 200 feet of the notice described in this section and within two hours before or after the notice was posted.

203.081 Sites not subject to ORS 203.077 to 203.081. As used in ORS 203.077 to 203.081, “camping site” does not include:

(1) Public property that is a day use recreational area.

(2) Public property that is a designated campground and occupied by an individual under an agreement with a municipality or county.

203.082 Camping by homeless on property of religious institutions; required elements of policies of local governments and religious institutions.

(1) Any political subdivision in this state may allow churches, synagogues and similar religious institutions to offer overnight camping space on institution property to homeless persons living in vehicles.

(2) In addition to any conditions or limitations imposed by a political subdivision, a religious institution located within the political subdivision and offering camping space described under subsection (1) of this section must:

(a) Limit camping space at the institution site to three or fewer vehicles at the same time; and

(b) Provide campers with access to sanitary facilities, including but not limited to toilet, hand washing and trash disposal facilities.

203.085 County election dates; procedures for emergency elections.

(1) Except as provided in subsection (2) of this section, no election on a county measure or for a county office shall be held on any date other than:

(a) The second Tuesday in March;

(b) The third Tuesday in May;

(c) The third Tuesday in September; or

(d) The first Tuesday after the first Monday in November.

(2) An emergency election may be held on a date other than those provided in subsection (1) of this section, if the county governing body by resolution finds that an emergency exists that will require an election sooner than the next available election date to avoid extraordinary hardship to the community. A determination under this subsection as to whether an emergency exists is within the sole discretion of the county governing body.

(3) A county governing body, with adequate notice, shall hold a public hearing, on a date other than a regularly scheduled meeting, for the purpose of making findings substantiating the fact that an emergency exists before scheduling an election on a date other than those specified in subsection (1) of this section.

(4) Notice of a county’s intent to hold an emergency election shall be filed with the county elections authority no later than 47 days preceding the desired election date. At the time the notice of election is given to the county elections authority, the county shall also file with the elections authority a certified copy of the ballot title and a copy of the resolution and findings adopted by the county governing body to authorize the emergency election as required under subsection (3) of this section.

203.090 State preemption of local laws relating to private security providers. The provisions of ORS 181.620, 181.870 to 181.887 and 181.991 preempt any laws of the political subdivisions of this state relating to the regulation of private security providers.

203.095 Governor's declaration of county public safety services emergency; process for declaration; recovery plan; rules.

(1) If the governing body of a county or the Governor believes that the county is in a state of fiscal distress that compromises the county's ability to provide a minimally adequate level of public safety services, the governing body or the Governor may seek a declaration of a public safety services emergency by requesting in writing that the Oregon Criminal Justice Commission review and analyze public safety services provided by the county.

(2) When a request for review of public safety services is made under subsection (1) of this section, the commission shall:

(a) Consult with the governing body of the county, the sheriff, the district attorney, judges and other appropriate county officials, with labor organizations representing county employees and with other public safety stakeholders to gather information regarding the current level of public safety services provided by the county;

(b) Review and analyze public safety services provided in the county to determine, based on the guidelines established pursuant to subsection (9) of this section, whether the county is providing a minimally adequate level of public safety services; and

(c) Report its findings and recommendation to the Governor within 14 days after the request for a review is made.

(3) If the commission finds that the county is providing a less than minimally adequate level of public safety services, the commission shall recommend to the Governor that the Governor declare a public safety services emergency for the county. The commission shall copy its findings and recommendation to the Legislative Assembly and the governing body of the fiscally distressed county.

(4) Upon receipt of the findings and recommendation from the commission's review and analysis the Governor shall:

(a) Review the findings and recommendation;

(b) Within 14 days of receipt of the commission's findings and recommendation, either issue the declaration of a public safety services emergency, if the Governor determines that the county's fiscal distress prevents the county from providing a minimally adequate level of public safety services, or issue a determination that the county's fiscal distress does not cause the county to provide a less than minimally adequate level of public safety services; and

(c) If the Governor issues the declaration of a public safety services emergency under paragraph (b) of this subsection, establish a fiscal control board, as described in ORS 203.100, for the distressed county.

(5) The fiscal control board shall meet with the governing body of the county, the sheriff, the district attorney, judges and other appropriate county officials, with labor organizations representing county employees, with other public safety stakeholders and with members of the public to gain a fuller understanding of the county's fiscal alternatives and public safety service needs and shortcomings. The board shall propose to the governing body of the county a recovery plan designed to restore minimally adequate public safety services. As part of the proposed recovery plan, the board may recommend that the governing body of the county:

(a) Reallocate funds;

(b) Cut services, lay off employees or otherwise reduce expenditures;

(c) Sell or lease real or personal property of the county;

(d) Issue bonds;

- (e) Renegotiate payment terms of the county's legal and moral indebtedness;
- (f) Refer measures to the voters;
- (g) Request an emergency election under ORS 203.085; or
- (h) Authorize the state to take over services as authorized by law other than this section.

(6) The governing body of the county shall approve or reject the recovery plan proposed by the fiscal control board. If the governing body:

(a) Approves the recovery plan, the board shall provide technical assistance in support of the governing body's implementation of the plan.

(b) Rejects the recovery plan, the board shall monitor the governing body's efforts to restore minimally adequate public safety services and, at the request of the governing body, shall provide technical assistance in support of the governing body's efforts to restore minimally adequate public safety services in the county.

(7) The fiscal control board shall periodically update the Governor and the Legislative Assembly from the time the board proposes a recovery plan to the fiscally distressed county until the Governor declares the public safety services emergency terminated pursuant to subsection (8) of this section. When the fiscal control board concludes that minimally adequate public safety services have been restored in the fiscally distressed county, the board shall recommend that Governor terminate the public safety services emergency.

(8) The Governor shall declare the public safety services emergency terminated when the Governor concludes that the fiscally distressed county has restored minimally adequate public safety services in the county.

(9) The commission shall establish, by rule, public safety services guidelines by which to identify the minimally adequate level at which public safety services must be delivered in a county. In establishing the guidelines, the commission shall seek broad input from the governing body of the county, the sheriff, the district attorney, judges and other appropriate county officials, labor organizations representing county employees, other public safety stakeholders and members of the public, and take into consideration the population density, geographic characteristics, historical crime rates and other relevant factors in Oregon counties. The guidelines must provide a basis for analyzing whether the county provides a minimally adequate level of public safety services in the areas of:

- (a) County jail operations;
- (b) Law enforcement, investigation and patrol;
- (c) Community corrections;
- (d) Juvenile justice;
- (e) Emergency operations and emergency response;
- (f) Search and rescue operations;
- (g) Criminal prosecution; and
- (h) Court facility operations.

203.100 Fiscal control board for county public safety services emergency; membership; termination.

(1) A fiscal control board established pursuant to ORS 203.095 consists of three nonvoting ex officio members and five appointed members who have knowledge of and experience with public safety services and fiscal management as follows:

- (a) The Governor shall appoint three members.
- (b) The President of the Senate shall appoint one member.
- (c) The Speaker of the House shall appoint one member.

(d) The Secretary of State, the State Treasurer and the director of the Department of Revenue shall serve as nonvoting ex officio members.

(2) A fiscal control board shall perform the functions described in this section and ORS 203.095.

(3) A majority of the members of the board constitutes a quorum for the transaction of business.

(4) Official action by the board requires the approval of a majority of the members of the board.

(5) The board shall elect one of its members to serve as chairperson.

(6) Appointed members serve at the pleasure of the appointing authority for a term of four years, subject to subsection (10) of this section.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The board shall use the services of permanent staff of the offices of the Governor, the Secretary of State and the State Treasurer, and the Department of Revenue to the greatest extent practicable. However, the Governor, the Secretary of State and the State Treasurer may agree to employ individuals to support the performance of the functions of the board, if necessary, and the employing state official shall fix the duties and amounts of compensation of these employees.

(9) All agencies of state government, as defined in ORS 174.111, are directed to assist the board in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish information and advice as the members of the board consider necessary to perform their duties.

(10) A fiscal control board terminates when the Governor declares that the public safety services emergency declared under ORS 203.095 (4) has ended.

203.111 County governing body; legislative authority; quorum. Unless otherwise provided by county charter, a county court shall be the governing body and shall exercise general legislative authority over all matters of county concern and shall consist of the county judge and two county commissioners and a majority of those persons shall constitute a quorum.

203.115 Statutory power to set fees limited to twice annually. A county governing body shall not change the amount of a fee it has set pursuant to statute within six months after setting that fee.

203.132 Inclusion of property outside county or in city in county assessment for local improvement.

(1) The governing body of a county may include property located outside the county or within a city as part of the property to be improved or to be assessed for a public improvement, subject to the following conditions:

(a) The type of improvement is one which the county has authority to finance by assessments against the property that is within the county and outside any city.

(b) The governing body of the other county or the city, by resolution, approves the improvement if any portion of it is within the other county or city.

(c) The governing body of the other county or the city, by resolution, approves the assessment of the property within the other county or city.

(d) The assessment authority, including authority to enforce collection of assessments, is exercised for property outside the county or within a city in the same manner as for property within the county.

(2) The owners of property in the other county or city subject to an assessment under this section shall have the same rights, including remedies, which the owners of property within the county may have.

203.135 Exercise of eminent domain power by county governing body for road, park and other public purposes. In addition to any other powers granted to a county under state law or county charter, a county governing body may exercise the power of eminent domain under ORS chapter 35 to acquire any right or interest in real property for:

(1) Public road, trail or other public easement purposes.

(2) Public park or recreation area purposes.

(3) Public building or public institution purposes.

(4) Purposes of development or protection of property acquired for a purpose otherwise described in this section including acquisition of land for use as a quarry, drainage way, pond, marsh or similar purpose.

203.145 Appointment of legal counsel for county governing body; authority of counsel; compensation.

(1) As used in this section, “board” means board of county commissioners, county court or county governing body of a county, as the case may be.

(2) Unless otherwise provided by county charter or legislation enacted pursuant thereto, the board of each county may appoint a person or persons licensed to practice law in the State of Oregon as counsel to advise the board and other county officers, to render services in connection with legal questions of a civil nature arising in the discharge of their functions, to prosecute violations of county law as defined by ORS 203.810, and to provide such additional services as the board determines. Counsel shall serve at the pleasure of the board, on a full- or part-time basis, and be compensated in the manner and amounts the board determines. The board shall reimburse counsel for necessary expenses incurred in performance of services rendered and may provide personnel, facilities and office space necessary for counsel to render such services.

(3) When a person or persons licensed to practice law in the State of Oregon have been appointed pursuant to subsection (2) of this section, they shall have the same civil authority and responsibilities as are otherwise provided for the district attorney when acting as advisor to the board and county officers.

203.148 Public Land Corner Preservation Fund; fees for recording.

(1) The county governing body may establish by ordinance a fund to be known as the Public Land Corner Preservation Fund. Moneys in the Public Land Corner Preservation Fund shall be used only to pay expenses incurred and authorized by the county surveyor in the establishment, reestablishment and maintenance of corners of government surveys under ORS 209.070 (5) and (6).

(2) After providing public notice of its intended action and holding a public hearing at which the residents of the county may appear and be heard on the issue of establishing or changing the fee, the county governing body may establish by resolution or order a fee not to exceed \$10 for recording all instruments under ORS 205.130 (2) in addition to any other fee charged by the county clerk. All moneys collected under this subsection shall be deposited with the county treasurer at least once a month to be credited to the Public Land Corner Preservation Fund.

203.230 Abolishing office of county judge and establishing board of county commissioners

in noncharter county; referral of order; operative date.

(1) The county court of any county which has not adopted a county charter pursuant to ORS 203.710 to 203.770, and in which the county judge has no judicial function, may order the office of county judge abolished and create in lieu thereof a third county commissioner. The order shall transfer all powers and duties of the county court and county judge to the board of county commissioners and, unless referred to the people, shall be effective on the date specified therein. The order made under this subsection may be referred to the people of the county for their approval or rejection and, if approved, shall become operative on the date specified in the order referred. The people of the county shall vote on such order at a primary election or general election.

(2) If, in a year in which a county judge is to be elected in the county, the order made under subsection (1) of this section is to become operative:

(a) On or subsequent to the date of the primary election but prior to the general election, then those persons nominated at the primary election for the office of county judge shall be candidates for the office of county commissioner created in the order.

(b) On or subsequent to the date of the regular general election, then the person elected to the office of county judge shall, upon the expiration of the term of office of the county judge holding office at the time the order was approved, take office as the county commissioner created in the order if the order has become operative.

(3) When the order issued under subsection (1) of this section becomes operative, the county judge shall, until the expiration of the term of office of the county judge, serve as the third county commissioner. At the general election next preceding the expiration of the term of office of the county judge there shall be elected, in addition to the two county commissioners provided by law for each county, one county commissioner who shall possess the same qualifications and be subject to the same provisions of law as the other county commissioners.

(4) The order issued under subsection (1) of this section may specify any or all of the following relating to the third commissioner:

- (a) Compensation that is different from the other commissioners;
- (b) Powers and duties that are different from the other commissioners; and
- (c) Service as chairperson of the board of commissioners.

(5) The person serving as county judge on the date the office is abolished shall serve as chairperson of the board of county commissioners until the expiration of the term of office of that person and shall be subject to the same provisions of law as the other county commissioners.

203.240 Organization, powers and duties of board.

(1) A board of county commissioners shall:

(a) Have the powers and duties and be otherwise subject to the laws applicable to county courts sitting for the transaction of county business.

(b) Unless provided otherwise by county charter or ordinance, consist of three county commissioners. A majority of the board is required to transact county business.

(c) Except as otherwise provided in ORS 203.230 (5) or an order issued under ORS 203.230

(1), appoint a chairperson from among their number who shall serve until the first Monday in January next following appointment. If two members of the board cannot agree on the appointment of a chairperson, the member of the board who is longest in length of service shall act as chairperson.

(2) When a county has established a board of county commissioners any reference in the statutes to the county court of that county shall be considered a reference to the board of county commissioners of the county.

ORS 204 — County Officers

- 204.005 Election or appointment of county officers
- 204.010 Terms of office of county officers
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- 204.070 Oath of judge pro tem
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- 204.116 Compensation of county officers, deputies and employees to be fixed by county governing body; disposition of fees
- 204.121 Compensation and appointment of officers, deputies and employees in counties subject to county civil service law
- 204.126 Change in compensation of elective officers
- 204.601 Number and appointment of deputies and other employees
- 204.635 Deputies of sheriff; special appointments; authority of deputy; liability of sheriff for certain deputies

204.005 Election or appointment of county officers.

(1) The following county officers shall be elected at the primary election or general election, as provided in ORS 249.088:

- (a) A sheriff.
- (b) A county clerk.
- (c) A county assessor.
- (d) A county treasurer.
- (e) A county commissioner to succeed any commissioner whose term of office expires the following January.

(f) In any county where there is a vacancy from any cause in the office of county commissioner, an additional commissioner to fill the vacancy.

(2) Unless an adopted county charter or a county ordinance provides otherwise, the governing body of a county shall appoint a county surveyor.

204.010 Terms of office of county officers.

(1) Except as provided in subsection (2) of this section, the term of office of each officer mentioned in ORS 204.005 is four years.

(2) When two or more county commissioners are elected for one county at a general election and one of them is elected to fill a vacancy, as provided in ORS 204.005 (1)(f), one of them shall hold office for two years and the others four years.

204.013 Numbered positions for office of county commissioner.

(1) In each county that has a board of county commissioners, each office of county commissioner shall be designated by number as Position No. 1, Position No. 2 or Position No. 3.

(2) After September 2, 1963, in every county having a board of county commissioners, or when a board of county commissioners is established in any county, the county clerk shall assign a position number to each office on the board of county commissioners. The number so assigned shall be certified by the county clerk to the commissioner in office holding that position. One copy of the certification shall be sent to the Secretary of State, and one copy shall be filed in the office of the county clerk.

204.016 Qualifications for county offices generally; additional qualifications for surveyor and assessor.

(1) A person is not eligible to serve in any office listed in ORS 204.005 unless the person is a citizen of the United States and an elector under the Oregon Constitution.

(2) A person is not eligible to serve in any elective office listed in ORS 204.005 unless the person meets the requirements of subsection (1) of this section and in addition is a resident of the county in which the person is elected for the period of one year preceding the next election.

(3) A person is not eligible to be a candidate for election or appointment to the office of county surveyor unless registered under the laws of this state as a registered professional land surveyor.

(4) A person is not eligible to be a candidate for election or appointment to the office of county assessor unless:

(a) The person has qualified as a registered appraiser or is an appraiser trainee under ORS 308.015 and if an appraiser trainee, notwithstanding ORS 308.015, becomes a registered appraiser within two years after taking office; and

(b) The person either has two years of office and accounting experience, including experience in office management activities, or has two years of full-time employment in the office of a county assessor.

(5) The Department of Revenue shall prepare applications and questionnaires, and obtain information it may deem necessary to determine that a candidate for the office of county assessor has met the requirements of subsection (4) of this section, and shall furnish to applicants suitable certificates evidencing satisfactory compliance with the required qualifications.

204.017 Election of county commissioners by numbered position.

(1) In all proceedings for the nomination or election of candidates for or to the office of county commissioner in each county having a board of county commissioners, every petition for nomination, declaration of candidacy, certificate of nomination or election, ballot or other document used in connection with the nomination or election shall state the position number of the office to which the candidate aspires, and the name of the candidate shall appear on the ballot only for the designated position.

(2) Each elector shall have the right to vote for only one candidate for each position on the board, and the candidate for each position receiving the highest number of votes for such position shall be considered nominated or elected, as the case may be.

204.020 When terms of office commence; filing certificate of election, oath and undertaking.

(1) The term of office of each officer elected pursuant to ORS 204.005 commences on the first Monday of January next following election to office.

(2) Before entering upon any elective office listed in ORS 204.005, the person elected must qualify by filing with the county clerk of the county in which the person is elected the person's certificate of election, with an oath of office indorsed thereon, and subscribed by the elected person, to the effect that the

person will support the Constitution of the United States and of this state, and faithfully carry out the office being assumed. The person shall also give and file the undertaking provided for under subsection (3) of this section.

(3) A county governing body may require, by ordinance, for the filing by each officer under ORS 204.005, prior to that officer assuming office, of an official undertaking with such surety as the governing body determines necessary or of an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, in either case in a reasonable amount with the county governing body.

204.065 Appointment of county judge pro tem. Whenever because of illness or injury an elected county judge is incapacitated and unable to perform the duties of office, and such facts are made to appear by the affidavit of one or more physicians, licensed to practice in this state, filed in the office of the Secretary of State, the Governor shall appoint some competent and qualified person county judge pro tem, who shall serve until the termination of the incapacity of the elected county judge has been evidenced in the same manner as the incapacity was originally evidenced, or until the expiration of the term of office, whichever shall first occur, or until the appointment may be revoked for cause by the Governor. Such appointment shall not vacate the office of the elected county judge nor discontinue the salary of the elected county judge.

204.070 Oath of judge pro tem. Before entering upon the performance of the duties of county judge pro tem, the appointee shall subscribe and file in the office of the county clerk the same oath of office required of an elected county judge.

204.075 Compensation of judge pro tem. A county judge pro tem shall receive from the county compensation for services at the same rate and in the same manner as the elected county judge.

204.112 County compensation board; members; compensation review and recommendations.

(1) Each county governing body shall appoint a county compensation board. A county compensation board shall consist of from three to five members, who are knowledgeable in personnel and compensation management.

(2) The county compensation board shall annually recommend a compensation schedule for the county elective officers mentioned in ORS 204.005.

(3) The county compensation board shall annually review the compensation paid to persons comparably employed by the State of Oregon, local public bodies and private businesses within a labor market deemed appropriate by the board for each elective officer. The county compensation board shall take into account such factors as the number of employees supervised and the size of the budget administered by each elective officer, the duties and responsibilities of each elective officer, and the compensation paid to subordinates and other appointed employees who serve in positions of comparable management responsibility. The county compensation board shall prepare and approve by majority vote a recommended compensation schedule for the elective officers and shall submit the recommended compensation schedule to the county governing body.

(4) Notwithstanding subsections (1) to (3) of this section, the sheriff's salary shall be fixed in an amount which is not less than that for any member of the sheriff's department.

204.116 Compensation of county officers, deputies and employees to be fixed by county governing body; disposition of fees.

(1) Except as otherwise provided by law, the governing body of each county shall fix the compensation of its own members and of every other county officer, deputy and employee when the compensation of such individuals is paid from county funds.

(2) Any commission, fees or other moneys received by a county officer, deputy or employee for services rendered in the course of that individual's office or employment shall not be allowed to or retained by that individual, but shall promptly be paid into the county treasury except:

- (a) For compensation fixed under subsection (1) of this section;
- (b) As otherwise determined by the governing body of the county; or
- (c) As otherwise provided by ORS 106.120 or 205.320 (6).

204.121 Compensation and appointment of officers, deputies and employees in counties subject to county civil service law. It is the intent of the Legislative Assembly that no provision of ORS 204.112, 204.116, 204.126 or 204.601 shall supersede any provision of the county civil service law, and when any conflict arises between any provision of ORS 204.112, 204.116, 204.126 or 204.601 and any provision of the county civil service law, then the county civil service law shall prevail.

204.126 Change in compensation of elective officers.

- (1) The compensation of any elective county officer shall remain in effect unless changed with the approval of the county budget committee or tax supervising and conservation commission.
- (2) Before any change in the compensation of an elective county officer is effective, it must be submitted to and approved by the county budget committee or tax supervising and conservation commission at a regular meeting or at a special meeting called for that purpose.

204.601 Number and appointment of deputies and other employees.

- (1) The county court or board of county commissioners of each county shall fix the number of deputies and employees of county officers whose compensation is to be paid from county funds.
- (2) All such deputies and employees shall be appointed by such county officer, and shall hold office during the pleasure of the appointing officer.

204.635 Deputies of sheriff; special appointments; authority of deputy; liability of sheriff for certain deputies.

- (1) A sheriff's deputies shall be appointed by the sheriff in writing and continue during the pleasure of the sheriff. The sheriff of any county may appoint deputies in the county for the purpose only, and with authority only, to receive and serve summons and civil process in any suit or action. A certified copy of the appointment of a deputy sheriff shall be filed with the county clerk, and the person appointed shall, before entering upon the duties of the office, take and file with the county clerk the oath of office.
- (2) A sheriff may also, by special written appointment, authorize any other person to do any particular act. A certified copy of such appointment shall be filed with the county clerk, unless indorsed upon the process, order or other paper so authorized to be served or executed.
- (3) A deputy has the power to perform any act or duty that the principal has, and a person specially appointed to do a particular act has the same power in relation to the particular act authorized. The principal is responsible for the conduct of such deputy or person specially appointed except as provided in subsection (4) of this section.
- (4) In counties having a civil service system covering deputy sheriffs, the sheriff shall not be responsible for the conduct of deputy sheriffs or persons specially appointed as provided in subsection (2) of this section.

ORS 205 — County Clerks

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205.010 Definitions.

(1) As used in the statutes of this state in reference to a chattel mortgage and action by the appropriate recording officer, “record,” “recorded” and “recording” mean “record or file,” “recorded or filed” or “recording or filing,” as the context requires.

(2) As used in this chapter:

(a) “Person” means an individual, organization, corporation, government, governmental subdivision or agency, business trust, partnership or association, two or more persons having a joint or common interest or any other legal or commercial entity.

(b) “Text” includes the words contained in the body of an instrument to be recorded

and the names of the transactions contained in the instrument. The term does not include instructions for completing the instrument, form numbers or statutory references.

(c) “Transaction” means an action, including but not limited to a transfer, encumbrance or release affecting title to or an interest in real property, that is required or permitted by state law or rule or federal law or regulation to be recorded.

205.110 General powers and duties of county clerk.

(1) The county clerk in each county shall keep and maintain the records of the county governing body.

(2) The county clerk of any county in which the county court has judicial functions shall, for the county court:

(a) Keep the seal of the court, and affix it in all cases required by law.

(b) Record the proceedings of the court.

(c) Keep the records, files, books and papers pertaining to the court.

(d) File all papers delivered to the clerk for that purpose in any action or proceeding in the court.

(e) Attend the terms of the court, administer oaths and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court.

(f) Under the direction of the court enter its orders and judgments.

(g) Authenticate, by certificate or transcript, as may be required, the records, files or proceedings of the court, or any paper pertaining thereto, and filed with the clerk.

(h) Exercise the powers and perform the duties conferred upon the clerk by statute.

(i) In the performance of duties pertaining to the court, conform to the direction of the court.

(3) The county clerk may take and certify the proof and acknowledgment of a conveyance of real property or any other written instrument authorized or required to be proved or acknowledged.

205.125 County Clerk Lien Record; contents; effect.

(1) The County Clerk Lien Record maintained under ORS 205.130 shall contain the following information for each order or warrant recorded:

(a) The name of any person subject to the order or warrant.

(b) The name of the officer and the agency that issued the order or warrant or the name of the complainant or claimant in whose favor an order of the Construction Contractors Board or State Landscape Contractors Board has been given. The name of the agency or board that issued the order or warrant must be clearly printed on the order or warrant.

(c) The amount of any monetary obligation imposed by the order or warrant, and the names of all persons against whom the obligation is imposed.

(d) The date on which the order or warrant was received and recorded.

(e) Full or partial satisfaction, if any, of any lien claim created by the order or warrant.

(f) County Clerk Lien Record instruments filed under ORS 205.130 (3)(c)(A) shall be on official letterhead and include the seals, if any, of the officers and agencies.

(g) Such other information as may be considered necessary by the county clerk.

(2) From the date that an order or warrant is recorded in the County Clerk Lien Record, the order or warrant shall have the attributes and effect of a judgment that has been entered in the register of the circuit court for that county, including but not limited to the creation of a judgment lien for any monetary obligation in favor of the officer or agency issuing the order or warrant or in favor of the complainant or claimant in the proceedings before the Construction Contractors Board or State Landscape Contractors Board, renewal and enforcement by supplementary proceedings, writs of execution, notices of garnishment and writs of garnishment.

(3) From the date that an order or warrant imposing a monetary obligation is recorded in the County Clerk Lien Record, the order or warrant becomes a lien upon the title to and interest in property of the person against whom it is issued in the same manner as a judgment that creates a judgment lien under ORS chapter 18.

(4) In addition to any other remedy provided by law, orders and warrants recorded in the County Clerk Lien Record may be enforced as provided in ORS 205.126.

205.126 Enforcement of order or warrant recorded in County Clerk Lien Record; renewal of order or warrant; notice of renewal.

(1) At any time after recording an order or warrant in the County Clerk Lien Record, a complainant or claimant or an attorney for an agency, complainant or claimant may file in the circuit court for the county where the order or warrant is recorded, a copy of the original order or warrant certified by the agency to be a true copy of original, and an affidavit of the complainant, claimant or attorney verifying that the order or warrant was recorded in the County Clerk Lien Record for that county, the date that the order or warrant was recorded and the date on which any notice of renewal was recorded under subsection (2) of this section. Subject to any other requirements that may apply to the enforcement remedy sought by the agency, complainant or claimant, proceedings may thereafter be commenced by the agency, complainant or claimant for the enforcement of the order or warrant, in the same manner as provided for the enforcement of judgments issued by a court. Enforcement proceedings may include:

- (a) Writ of execution proceedings under ORS 18.252 to 18.993.
- (b) Proceedings in support of execution under ORS 18.265, 18.268 and 18.270.
- (c) Garnishment proceedings under ORS 18.600 to 18.850.

(2) At any time within 10 years after the recording of an order or warrant, an agency, complainant or claimant, acting with or without the assistance of an attorney, may renew an order or warrant by recording a notice of renewal in the County Clerk Lien Record. A notice of renewal recorded within the time specified by this subsection has the attributes and effect of an extension of judgment remedies noted in the register under ORS 18.182, from the date that the notice is recorded. A notice of renewal recorded under this section must state:

(a) The name of the agency that issued the order or warrant or the name of the complainant or claimant in whose favor an order of the Construction Contractors Board or State Landscape Contractors Board has been given;

(b) The names of all persons against whom a monetary obligation is imposed under the order or warrant; and

(c) The date of recording and the recording number, the book and page number for the recording, or the volume and page number for the recording.

(3) For the purposes of this section:

(a) “Agency” means any state officer, board, commission, corporation, institution, department or other state body that has authority to record an order or warrant in the County Clerk Lien Record.

(b) “Complainant or claimant” means a person in favor of which a board order has been recorded under the provisions of ORS 671.707 or 701.153.

205.127 Recording in County Clerk Lien Record required for certain liens. The County Clerk Lien Record in each county where the real property is located is the place of recording a lien filed pursuant to CERCLA, 100 U.S. Stat 1630.

205.130 Recording duties of county clerk. The county clerk shall:

(1) Have the custody of, and safely keep and preserve all files and records of deeds and mortgages of real property, and a record of all maps, plats, contracts, powers of attorney and other interests affecting the title to real property required or permitted by law to be recorded.

(2) Record, or cause to be recorded, in a legible and permanent manner, and keep in the office of the county clerk, all:

(a) Deeds and mortgages of real property, powers of attorney and contracts affecting the title to real property, authorized by law to be recorded, assignments thereof and of any interest therein when properly acknowledged or proved and other interests affecting the title to real property required or permitted by law to be recorded;

(b) Certificates of sale of real property under execution or order of court, or assignments thereof or of any interest therein when properly acknowledged or proved;

(c) Certified copies of death certificates of any person appearing in the county records as owning or having a claim or interest in land in the county. A death certificate recorded in the deed records of a county under this subsection is a public record and is not subject to the disclosure limitations under ORS 432.121;

(d) Instruments presented for recording by the United States or the State of Oregon, or a political subdivision of either, that affect title to or an interest in real property or that lawfully concern real property;

(e) Instruments recognized under state law or rule or federal law or regulation as affecting title to or an interest in real property if the instrument is properly acknowledged or proved; and

(f) Orders from a county forestland-urban interface classification committee filed under ORS 477.052.

(3) Keep and maintain:

(a) Deed and mortgage records;

(b) Statutory lien records;

(c) A record called the County Clerk Lien Record in which the following shall be recorded:

(A) The warrants and orders of officers and agencies that are required or permitted by law to be recorded; and

(B) All instruments presented for recordation when required or permitted by law to be recorded that affect the title to or an interest in real property, other than instruments recorded in the deed and mortgage records or the statutory lien records;

(D) Releases, satisfactions, assignments, amendments and modifications of recorded instruments; and

(E) Other instruments required or permitted by law to be recorded not affecting interests in real property.

(4) Perform all the duties in regard to the recording and indexing of deeds and mortgages of

real property, contracts, abstracts of judgments, notices of pendency, powers of attorney and other interests when required or permitted by law to be recorded that affect the title of real property, and in regard to the entry of satisfaction and discharge of the same, together with other documents required or permitted by law to be recorded.

(5) Incur no civil or criminal liability, either personally or in an official capacity, for recording an instrument that does not comply with the provisions of law that require or allow the recording of the instrument.

205.135 Preparation of true copy of document not sufficiently legible to reproduce readable photographic record. Whenever the text of a document presented for recording may be made out but is not sufficiently legible to reproduce a readable photographic record, the county clerk shall require the person presenting it for recording to substitute a legible original document or prepare a true copy thereof by handwriting or typewriting and attach the same to the original as a part of the document for making the permanent photographic record.

205.140 Transcript or copy of record as evidence. A transcript of the record of any instruments duly recorded by the county clerk in any county under the authority of ORS 205.130 and 205.160 to 205.190, or a photographic or photostatic copy thereof, duly certified by the county clerk, under the seal of office, may be recorded in the office of any county clerk or read in evidence in any court with like force and effect as the original instrument.

205.150 Seal of clerk. The county court shall provide a suitable seal for the use of the county clerk.

205.160 Indexes kept by county clerk; use of alternative recording method allowed.

(1) The county clerk shall keep a direct general index and an indirect general index in the office of the clerk.

(2) The direct general index shall contain, but need not be limited to, the following:

- (a) Date and time of reception.
- (b) Names of grantors.
- (c) Names of grantees.
- (d) Nature or type of instrument.
- (e) Volume and page where recorded or the instrument number.
- (f) Remarks.
- (g) Brief description of tract.
- (h) To whom delivered.
- (i) Fees received.

(3) The clerk shall make correct entries in the direct general index of every instrument recorded under the appropriate heading, entering the names of the grantors in alphabetical order.

(4) The indirect general index shall contain, but need not be limited to, the following:

- (a) Date and time of reception.
- (b) Names of grantees.
- (c) Names of grantors.
- (d) Nature or type of instrument.
- (e) Volume and page where recorded or the instrument number.
- (f) Remarks.

(g) Brief description of tract.

(5) The clerk shall make in the indirect general index correct entries of every instrument required by law to be entered in the general index direct, entering the names of the grantors in alphabetical order.

(6) Whenever any mortgage, bond, judgment or other instrument has been released or discharged from record, or by recording a deed or lease, the clerk shall immediately note in both the direct general index and the indirect general index under the column headed "Remarks," and opposite the appropriate entry, that such instrument has been satisfied.

(7) In lieu of both the direct general index and the indirect general index a county clerk may use a data processing device or computer to provide a combined index to books or records defined in law that shall contain the following:

(a) Date and time of reception.

(b) Names of grantees.

(c) Names of grantors.

(d) Nature or type of instrument.

(e) Recording number.

(f) Brief description of tract.

(g) To whom delivered.

(h) Fees received.

(i) When available, a reference to the instrument being released or discharged.

(j) Such other information as the county clerk may require.

(8) The county clerk shall provide public access to the combined index and otherwise meet the requirements of ORS chapter 192.

205.180 Entry in appropriate record of instruments received for recording.

(1) The county clerk shall make in the appropriate record correct entries of every instrument required by law to be recorded.

(2) Whenever any instrument has been received for record, the county clerk shall immediately place upon such instrument a certificate, noting the day, hour and minute of its reception and fees received for recording and, when recorded, a reference to where it is recorded. The date of record of such instrument is the date of recordation.

(3) Whenever any instrument has been recorded, the county clerk shall immediately make an entry in the record of the clerk with the amount paid as fee for recording.

(4) After such instrument has been recorded the county clerk shall return it to the person who recorded or is authorized to receive the same, writing the name of the person to whom it is delivered in the record.

205.190 Record of plats and maps of towns, villages, cemeteries. Each county clerk shall maintain a record of all maps of towns, villages, or additions to the same, or cemeteries, within the county, together with any description, acknowledgment or other writing therein. The county clerk shall create and store the maps in accordance with archival standards for the preservation of the record. The clerk shall keep an index that may be part of the deed index and shall contain the name of the town, village, addition or cemetery plat. The clerk shall not be bound to perform any duty required by ORS 205.130, 205.160, 205.180 and this section for which a fee is allowed, unless such fee has been paid or tendered, but when any such

map has, prior to May 29, 1919, been incorrectly recorded in the plat records or deed records of the county, and such plat so incorrectly recorded is again presented by anyone to the clerk for record, the clerk shall correctly record such map in the record of plats without charge therefor, and shall make notation in the index of the fact of such re-recording, giving the book and page or instrument number where the re-recording appears. The record of the original map so re-recorded, as well as the record of all maps recorded under this section, as well as all original maps or plats recorded prior to May 29, 1919, shall be safely kept in the office of the clerk. The clerk shall not refuse to comply with this section by reason of the fact that some portion of the lands so platted were brought under any statute of this state relating to the registration of land titles.

205.220 Recording copies of estate records; copy as evidence. Any copies of records of any estate administered in this state, certified to as true and correct by the clerk of the court in which the estate was or is being administered, shall be received and recorded by the officer having charge of the deed records of any county upon the payment of the fees required by law. A certified copy of such record shall be received as prima facie evidence of the original record in any court of this state.

205.232 Conditions for instruments to be recorded; exception. Except as provided in ORS 205.327, a county clerk shall not accept any instrument for recording unless the text of the instrument is typed, written or printed in 8-point type or larger on paper that is not larger than 14 inches long and 8-1/2 inches wide and which paper is of sufficient quality for recording photographically. However, this section does not apply to out-of-state notarial acts or to certified copies of public records presented to a county clerk for recording.

205.234 Requirements for first page of instruments to be recorded; cover sheet.

(1) When any instrument is presented to a county clerk for recording, the first page of the instrument shall contain at least:

- (a) The names of the transactions as required in ORS 205.236;
- (b) The names of the persons described in ORS 205.125 (1)(a) and (b) and 205.160;
- (c) The person and address (for mailing purposes only) to whom the instrument will be delivered as provided in ORS 205.180;
- (d) For instruments conveying or contracting to convey fee title to any real estate and all memoranda of such instruments, the true and actual consideration paid for such transfer as required by ORS 93.030;
- (e) For instruments conveying or contracting to convey fee title to any real estate, the tax statement information required by ORS 93.260;
- (f) For instruments recorded in the County Clerk Lien Record, the information described in ORS 205.125 (1)(c) and (e); and
- (g) For instruments assigning a mortgage or trust deed, the name and address of the assignee mortgagee or assignee trust deed beneficiary.

(2) Notwithstanding ORS 205.327, if an instrument presented for recording does not contain the information required by subsection (1) of this section, a cover sheet may be prepared that contains the required information. The cover sheet shall be prepared by the person presenting the instrument for recording. The cover sheet may be attached to the instrument and shall be recorded as a part of the instrument. Any errors in the cover sheet shall not affect the transactions contained in the instrument itself. The cover sheet need not be separately signed or acknowledged.

205.236 Instrument describing two or more transactions; recordation; fee.

- (1) An instrument required or permitted by law to be recorded shall be clearly labeled in sufficient detail to enable the clerk to record the instrument in the appropriate record.
- (2) An instrument describing two or more transactions required or permitted by law to be

recorded as separate instruments may be recorded when the instrument is labeled in sufficient detail to enable the clerk to record the transactions in the appropriate records and:

- (a) The transactions described in the instrument involve the same properties;
- (b) The transactions are assignments, releases or satisfactions of any recorded instrument;
- (c) The transactions are liens recorded under ORS 311.675;
- (d) The transactions are municipal assessment liens being recorded under ORS 93.643;
- (e) The instrument is recorded under ORS 371.650; or
- (f) The instrument is a cooperative contract recorded under ORS 62.360.

(3) When an instrument described in subsection (2) of this section is accepted for recording by a county clerk, the county clerk shall enter the instrument into the appropriate records.

(4) Recording fees shall be charged for recording each additional transaction described in subsection (2) of this section and the fee shall be the fee provided for in ORS 205.320.

(5) Nothing in this section is intended to abolish the requirements for collection of the fees required under ORS 205.323.

(6) Recording an instrument under this section when the instrument is not clearly labeled does not affect the validity of the recordation.

(7) A county clerk shall not incur civil or criminal liability, either personally or in an official capacity, for recording an instrument under this section when the instrument is not labeled in sufficient detail to allow the clerk to record the transactions in all appropriate records.

205.238 Return of instrument after recordation. In every county, the county clerk shall return any instrument presented for recording to the person authorized to receive the instrument. The county clerk shall return the instrument by personally delivering or mailing the instrument not later than the 10th business day, not counting days on which the recording office is closed, after the date of recordation.

205.242 Clerk to receive and certify instruments during specified hours; exception.

(1) Except as provided in subsection (2) of this section, in every county, the office of the county clerk shall receive and certify, as required by ORS 93.620, instruments presented for recording for a minimum of six hours between the hours of 9 a.m. and 4 p.m., including the first hour and the last hour, on every day except Saturdays, Sundays and other holidays.

(2) The provisions of this section may be modified for a fiscal year by the county governing body upon adoption of a resolution in which it determines in its discretion that a fiscal emergency exists. A resolution adopted under this subsection may be renewed, amended or repealed. Hours of recording shall not be reduced under the resolution to any extent greater than the reductions for other nonemergency county services housed within the same building.

205.244 Recording of corrected instruments.

(1) An instrument that has been previously recorded may be rerecorded to make corrections in the original instrument.

(2) The county clerk shall record an instrument presented for rerecording as provided in subsection (1) of this section. The corrected instrument need not be acknowledged again. The person presenting the instrument for rerecording shall cause a rerecording certificate to be affixed to the first page of the instrument or to a cover sheet authorized by ORS 205.234 (2) added as a new first page to the instrument. The rerecording certificate shall contain the words "RERECORDED AT THE REQUEST OF

____ TO CORRECT _____. PREVIOUSLY RECORDED IN BOOK ____ AND PAGE ____, OR AS FEE NUMBER ____.”

(3) A certified copy of a recorded instrument may not be altered for the purpose of correcting the original instrument. The person presenting the instrument may present an unaltered certified copy of the recorded instrument when it is attached to a cover sheet authorized by ORS 205.234 (2). The cover sheet must contain the rerecording certificate described in subsection (2) of this section. The rerecorded document may include attachments identified on the cover sheet that are necessary to make the corrections.

(4) A county clerk shall not incur civil or criminal liability, either personally or in an official capacity, for recording a corrected instrument under this section.

205.246 Instruments to be recorded; fees.

(1) The county clerk shall record the following instruments required or permitted by law to be recorded and entered in the office of the county clerk:

- (a) Financing statements recorded in the office of the county clerk under ORS 79.0501 (1)(a);
- (b) Hospital and physician liens recorded under ORS 87.565;
- (c) Federal tax liens and certificates and notices affecting federal tax liens recorded under ORS 87.806;
- (d) Cooperative contracts recorded under ORS 62.360;
- (e) Special district assessments attaching to real property;
- (f) Lien foreclosure statements recorded under ORS 87.202;
- (g) A certified copy of the judgment or a lien record abstract or other liens affecting the title to real property;
- (h) Building code exemptions required under ORS 455.320 and 455.345;
- (i) Construction liens recorded under ORS 87.050;
- (j) Liens upon chattels recorded under ORS 87.246;
- (k) Liens on real property recorded under ORS 87.372;
- (l) Employee benefit plan liens recorded under ORS 87.860;
- (m) Attorney liens recorded under ORS 87.455 and 87.460;
- (n) Long term care liens recorded under ORS 87.517;
- (o) Ambulance services liens recorded under ORS 87.623;
- (p) Community property records recorded under ORS 108.530;
- (q) Sheriff transfer of records recorded under ORS 206.100;
- (r) Corrected instruments required under ORS 205.244;
- (s) Mineral and mining records required under ORS 517.030, 517.052, 517.160, 517.180, 517.210, 517.220, 517.280, 517.310 and 517.320;
- (t) Copies of records certified by a county clerk or court clerk;
- (u) Subdivision and partition plats recorded under ORS 92.140;
- (v) Condominiums recorded under ORS chapter 100;
- (w) Requests for notice of transfer or encumbrance or terminations of requests for

notice of transfer or encumbrance presented for recordation under ORS 411.694;

(x) Bankruptcy documents presented for recordation under ORS 93.770;

(y) A written warranty agreement under ORS 701.605;

(z) An instrument, as described in ORS 86.722, to correct errors in a recorded trust deed; and

(aa) An order or decision under section 8 (7), chapter 424, Oregon Laws 2007, or section 6, chapter 855, Oregon Laws 2009, that is final by operation of law or on appeal.

(2) The county clerk shall charge and collect fees specified in ORS 205.320, 205.327 and 205.350 for recording an instrument required to be recorded under subsection (1) of this section.

(3) Indexes may be maintained for instruments recorded under subsection (1) of this section in the same manner as provided in ORS 205.160.

205.255 Filing requirement as recording requirement. Any requirement by the laws of this state that an instrument described in ORS 205.246 be filed in the office of the county clerk or that an instrument be filed in deed or mortgage records shall be considered to be a requirement that such instruments be recorded instead of being filed.

205.320 Fees collected by county clerk; use of portion of certain fees. In every county there shall be charged and collected in advance by the county clerk, for the benefit of the county, the following fees, and no more, for the following purposes and services:

(1) For filing and making entry when required by law of any instrument required or permitted by law to be filed, when it is not recorded, \$5 for each page.

(2) For filing and making entry of the assignment or satisfaction of any filed, but not recorded, instrument, \$5 for each page.

(3) For each official certificate, \$3.75.

(4) (a) For purposes of this subsection, "page" means one side of a sheet 14 inches, or less, long and 8-1/2 inches, or less, wide.

(b) For recording any instrument required or permitted by law to be recorded, \$5 for each page, but the minimum fee shall not be less than \$5.

(c) For supplying to private parties copies of records or files, not more than \$3.75 for locating a record requested by the party and 25 cents for each page.

(d) For each official certificate, \$3.75.

(5) For taking an affidavit for and making and issuing a marriage license and registering the return of the license, or for taking an affidavit for and registering a Declaration of Domestic Partnership, \$25.

(6) For solemnizing a marriage under ORS 106.120, \$25. This subsection does not require that the county clerk charge a fee for solemnizing a marriage after normal working hours or on Saturdays or legal holidays. This subsection does not prohibit a county clerk from charging and accepting a personal payment for solemnizing a marriage if otherwise authorized by ORS 106.120.

(7) For taking and certifying acknowledgment or proof of execution of any instrument, the fee established in the schedule adopted by the Secretary of State under ORS 194.164.

(8) For issuing any license required by law, other than a marriage or liquor license, and for which no fee is otherwise provided by law, \$5.

(9) For any service the clerk may be required or authorized to perform and for which no fee

is provided by law, such fees as may favorably compare with those established by this section for similar services and as may be established by order or rule of the county court or board of county commissioners.

(10) For recording any instrument under ORS 205.130 (2), as required by ordinance pursuant to ORS 203.148.

(11) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional municipal assessment lien recorded under ORS 93.643, \$5.

(12) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional assignment, release or satisfaction of any recorded instrument, \$5.

(13) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional transaction described under ORS 205.236, \$5.

(14) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional lien recorded under ORS 311.675, \$5.

(15) For preparing and recording the certificate under ORS 517.280, \$20 or such other fee that is established by the county governing body.

(16) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional claim listed on an affidavit of annual compliance under ORS 517.210, \$5.

(17) In addition to and not in lieu of the fees charged under subsection (4) of this section, for each additional name listed on a cooperative contract under ORS 62.360 (2) or for recording the termination of a cooperative contract under ORS 62.360 (4), \$5.

(18) Notwithstanding any other law, five percent of any fee or tax that is not collected for the benefit of the county clerk shall be deducted from the fee or tax. The moneys deducted shall be expended for acquiring storage and retrieval systems, payment of expenses incurred in collecting the fee or tax and maintaining and restoring records as authorized by the county clerk. Moneys collected under this subsection shall be deposited in a county clerk records fund established by the county governing body. No moneys shall be deducted under this subsection from:

(a) Fees collected for the Domestic Violence Fund under ORS 106.045.

(b) Fees collected for conciliation services under ORS 107.615.

(c) Real estate transfer taxes enacted prior to January 1, 1998.

(d) Fees collected under ORS 205.323 for the Oregon Land Information System

Fund.

205.323 Additional fees for recording certain instruments; use of fees.

(1) In addition to and not in lieu of the fees charged and collected under ORS 205.320 and other fees, the county clerk shall charge and collect the following fees for the recording or filing of any instrument described in ORS 205.130:

(a) A fee of \$1, to be credited as provided in subsection (4)(a) of this section;

(b) A fee of \$10, to be credited as provided in subsection (4)(b) of this section; and

(c) A fee of \$15, to be credited as provided in subsection (4)(c) of this section.

(2) Subsection (1) of this section does not apply to the recording or filing of the following:

(a) Instruments that are otherwise exempt from recording or filing fees under any provision of law;

(b) Any satisfaction of judgment or certificate of satisfaction of judgment; or

(c) Internal county government instruments not otherwise charged a recording or filing fee.

(3) Subsection (1)(c) of this section does not apply to the recording or filing of:

(a) Instruments required under ORS 517.210 to maintain mining claims;

(b) Warrants issued by the Employment Department pursuant to ORS 657.396, 657.642 and 657.646; or

(c) A certified copy of a judgment, a lien record abstract as described in ORS 18.170 or a satisfaction of a judgment, including a judgment noticed by recordation of a lien record abstract.

(4) Of the amounts charged and collected under this section:

(a) The recording or filing fee charged and collected under subsection (1)(a) of this section must be deposited and credited to the Oregon Land Information System Fund established under ORS 306.132.

(b) The recording or filing fee charged and collected under subsection (1)(b) of this section shall be credited as follows:

(A) Five percent of the fee must be credited for the benefit of the county;

(B) Five percent of the fee must be credited for the benefit of the county clerk for the purposes described in ORS 205.320 (18); and

(C) 90 percent of the fee must be credited to and deposited in the County Assessment and Taxation Fund created under ORS 294.187.

(c) The recording or filing fee charged and collected under subsection (1)(c) of this section must be credited to and deposited in the County Assessment and Taxation Fund created under ORS 294.187.

(5) The Department of Revenue is exempt from paying the fee under subsection (1)(c) of this section.

205.327 Penalty for presenting nonstandard instruments for recording. When an instrument required or permitted by law to be recorded is presented to a county clerk for recording, if the instrument does not comply with the requirements of ORS 205.232 and 205.234, the county clerk shall record the instrument, but shall charge and collect in advance a penalty of \$20. The penalty authorized and collected under this section shall be in addition to and not in lieu of the fees charged under ORS 205.320 for recording the instrument.

205.350 Fees for approving and recording plats. The fee for performing the services set forth in ORS 92.090, 92.100 and 271.230, shall be set by ordinance of the county governing body.

205.360 Clerk to receipt and account for certain probate fees collected. The clerk of the county court shall receive and receipt for fees prescribed in ORS 21.310 that are collected by the clerk, stating in the receipt the amount so received, from whom received and on what account the amount was received, specifying the cause or proceeding. If it is ascertained at any time that the clerk has received any such fees not so accounted for, or done service without collecting fees therefor as provided in ORS 21.310, or neglected duty in any other respect, the payment of salary of the clerk shall be withheld until the matter is fully rectified.

205.365 Disposition of County Clerk Lien Record fees. Within the first 10 days of the month following the month in which collected, all fees collected by a county clerk for recording and making entry of any instrument in the County Clerk Lien Record shall be paid to the county treasurer for deposit in a separate account in the county general fund. Moneys in such account shall be credited to the county clerk and used exclusively by the county clerk for payment of expenses incurred in maintaining the County Clerk Lien Record.

205.370 Payment to and disposition of trial fees by court clerk. Trial fees in the county court exercising judicial functions shall be paid to the clerk of the court, who shall keep a regular account of them, and by whom paid, in the fee book. The clerk shall pay the amount of such fees received to the treasurer of the county, as often as once a month, taking receipt therefor in duplicate, one of which the clerk shall file in the office of the clerk and the other the clerk may retain as private property. At the annual accounting of the county officers with the county court, the clerk shall exhibit to such court a detailed statement of the trial fees received by the clerk in the course of the year, verified by the oath of the clerk.

205.395 Payment of fees by state agencies for entry in County Clerk Lien Record. Notwithstanding the provisions of ORS 182.040 to 182.060 and 205.320 relating to the time and manner of payment of fees to the county clerk, a state officer or state agency that records a warrant, order, a certified copy of the judgment or lien record abstract or other document with a county clerk for entry in the County Clerk Lien Record shall not be required to pay the fee for that service in advance or at the time the entry is made. Except as provided in ORS 137.270 the county clerk, on the 10th day of each month, shall provide the officer or agency with an itemized statement of all recordings made by the officer or agency for the preceding month, together with the total charge therefor. The officer or agency, upon receipt of the itemized statement, shall promptly pay the amount due the county. The fees that may be charged and collected by the county clerk for recording and making entry of any instrument in the County Clerk Lien Record are those fees prescribed for recording documents.

205.450 Definitions for ORS 205.450 to 205.470. As used in ORS 205.450 to 205.470:

- (1) "Encumbrance" means a claim, lien, charge or liability attached to and binding property.
- (2) "Encumbrance claimant" means a person who purportedly benefits from the filing of an encumbrance.
- (3) "Federal official or employee" has the meaning given the term "employee of the government" in the Federal Tort Claims Act (28 U.S.C. 2671).
- (4) "Filing" includes filing or recording.
- (5) "Invalid claim of encumbrance" means a claim of encumbrance that is not a valid claim of encumbrance.
- (6) "Property" includes, but is not limited to, real and personal property.
- (7) "State or local official or employee" means an appointed or elected official, employee or agent of:
 - (a) A branch of government of this state or a state agency, board, commission or department of a branch of government of this state;
 - (b) A state institution of higher education;
 - (c) A community college or local school district in this state;
 - (d) A city, county or other political subdivision in this state; or
 - (e) A public corporation in this state.
- (8) "Valid claim of encumbrance" is an encumbrance that:
 - (a) Is an encumbrance authorized by statute;
 - (b) Is a consensual encumbrance recognized under the laws of this state; or
 - (c) Is an equitable, constructive or other encumbrance imposed by a court of competent jurisdiction.

205.455 Invalid claim of encumbrance; acceptance of filing prohibited; notice of invalid claim; form; posting notice; effect of filing invalid claim of encumbrance.

(1) No person or county shall accept for filing an invalid claim of encumbrance.

(2) No person or county shall accept for filing a claim of encumbrance against the property of a federal official or employee or a state or local official or employee based on the performance or non-performance of the official duties of the official or employee unless accompanied by an order from a court of competent jurisdiction authorizing the filing of the encumbrance.

(3) A claim of encumbrance against the property of a federal official or employee or a state or local official or employee based on the performance or nonperformance of the official duties of the official or employee that is not accompanied by an order from a court of competent jurisdiction is an invalid claim of encumbrance and has no legal effect.

(4) If an invalid claim of encumbrance against the property of a federal official or employee or against the property of a state or local official or employee is accepted for filing, the filing officer shall accept for filing a notice of invalid encumbrance signed and submitted by:

(a) The assistant United States attorney representing the federal agency of which the individual is an official or employee;

(b) The assistant attorney general representing the state official, employee or agent, or the state agency, board, commission, department or state institution of higher education of which the individual is an official, employee or agent; or

(c) The attorney representing the community college or local school district, political subdivision or public corporation of which the individual is an official, employee or agent.

(5) A notice of invalid encumbrance shall be in substantially the following form:

(6) A copy of the notice of invalid encumbrance filed under this section shall be posted at the county courthouse and mailed by the attorney to the encumbrance claimant at the encumbrance claimant's last-known address, if available.

(7) No person or county shall be liable under this section for accepting for filing an invalid claim of encumbrance or for accepting for filing a notice of invalid encumbrance.

(8) Filing a notice of invalid encumbrance under this section shall clear title to all property that is affected by the claim of encumbrance that is the subject of the notice of invalid encumbrance from all claims, liens, charges or liabilities attached to the property under the claim of encumbrance.

205.460 Order to show cause why invalid claim of encumbrance should not be discharged; petition; hearing; release of invalid claim; application.

(1) A person whose property is subject to an invalid claim of encumbrance may petition the circuit court of the county in which the person resides or in which the property is located for an order, which may be granted ex parte, directing the encumbrance claimant to appear at a hearing before the court and show cause why the claim of encumbrance should not be stricken and other relief provided by this section should not be granted. The court shall schedule the hearing no earlier than seven days after the date of the order. The scheduled date of the hearing shall allow adequate time for notice of the hearing under subsection (4) of this section.

(2) A petition under this section shall state the grounds upon which relief is requested, and shall be supported by the affidavit of the petitioner or the petitioner's attorney setting forth a concise statement of the facts upon which the motion is based.

(3) The petition and affidavit described in subsection (2) of this section shall be in substantially the following form:

(4) A copy of the petition and the order directing the encumbrance claimant to appear under this section shall be served upon the encumbrance claimant:

7; or

(a) By service in the manner provided for personal service of summons under ORCP

(b) By mailing a true copy of the petition, affidavit and order to the encumbrance claimant at the encumbrance claimant's last-known address, both by first class mail and by certified or registered mail, return receipt requested. A notice mailed under this paragraph is effective on the date that the notice is deposited with the United States Postal Service, properly addressed and postage prepaid.

(5) The order to show cause shall be in substantially the following form and shall clearly state that if the encumbrance claimant fails to appear at the time and place noted, the claim of encumbrance shall be stricken and released and that the encumbrance claimant shall be ordered to pay the costs and reasonable attorney fees incurred by the petitioner at trial and on appeal:

(6) If the court determines that the claim of encumbrance is invalid, the court shall issue an order striking and releasing the claim of encumbrance and may award costs and reasonable attorney fees at trial and on appeal to the petitioner to be paid by the encumbrance claimant. If the court determines that the claim of encumbrance is valid, the court shall issue an order so stating and may award costs and reasonable attorney fees at trial and on appeal to the encumbrance claimant to be paid by the petitioner.

(7) The procedure set forth in this section is not available against a person lawfully conducting business as:

(a) An institution, a savings bank, a national bank, an out-of-state bank, a federal savings bank or an extranational institution, as those terms are defined in ORS 706.008, or a subsidiary of an entity described in this paragraph;

(b) A financial holding company, a bank holding company, a savings and loan holding company or a subsidiary of a financial holding company, a bank holding company or a savings and loan holding company;

(c) A credit union, as defined in ORS 723.006, or a federal credit union;

(d) A consumer finance company subject to the provisions of ORS chapter 725;

(e) A mortgage banker or a mortgage broker, as those terms are defined in ORS 86A.100, a mortgage servicing company or any other mortgage company; or

(f) An insurer as defined in ORS 731.106.

(8) The procedure set forth in this section is not available against:

(a) An officer, agency, department or instrumentality of the federal government;

(b) An officer, agency, department or instrumentality of this state; or

(c) An officer, agency, department or instrumentality of a political subdivision or public corporation in this state.

205.465 Claim of encumbrance against certain property invalid without judicial order. A claim of encumbrance against the property of a federal official or employee or against the property of a state or local official or employee based on the performance or nonperformance of official duties of the official, employee or agent shall be invalid unless an order from a court of competent jurisdiction authorizing the filing of the encumbrance is filed with the encumbrance.

205.470 Liability for filing invalid claim of encumbrance. Any person who knowingly files, or directs another to file, an invalid claim of encumbrance shall be liable to the owner of the property bound by the claim of encumbrance for a sum of not less than \$5,000 or for actual damages caused by the filing of the claim of encumbrance, whichever is greater, together with costs and reasonable attorney fees at trial and on appeal. Any grantee or other person purportedly benefited by an invalid encumbrance that is filed who willfully refuses to release the invalid encumbrance upon request of the owner of the property affected shall

be liable to the owner for the damages and costs and reasonable attorney fees at trial and on appeal provided in this section.

205.510 County clerk not to act or have partner acting as attorney.

(1) No county clerk shall during the term of office of that clerk institute or assist in instituting any suit, action or probate proceeding in any court of which the clerk is an officer, act as an attorney or counselor with or without hire in any such suit, action or proceeding, or have a partner who shall act as an attorney in any of such proceedings.

(2) The county clerk of Multnomah County and the deputies of the clerk are prohibited from practicing or having a partner practicing as an attorney-at-law, while in office.

205.515 Orders or warrants issued by state agency or officer; docketing; transfer to County Clerk Lien Record.

(1) If an order or warrant issued by a state agency or officer was docketed in the judgment docket of the circuit court of any county before October 3, 1989, notice of satisfaction or release of the lien of an order or warrant so docketed shall be docketed in the same judgment docket in which the order or warrant was docketed.

(2) If an order or warrant issued by a state agency or officer was docketed in the judgment docket of a circuit court of any county before October 3, 1989, the officer or agency may cause such an order or warrant to be transferred to and recorded in the County Clerk Lien Record of the same county in which the order or warrant was originally docketed as provided in subsection (3) of this section. An order or warrant so transferred shall continue the lien created by the original docketing of the order or warrant.

(3) Upon request, the clerk of a circuit court shall supply to an officer or agency a certified copy of any order or warrant docketed in the judgment docket of a circuit court before October 3, 1989. That certified copy may then be recorded in the County Clerk Lien Record of the county where the circuit court is located in the same manner and with the same effect provided for the recording of original orders and warrants. Upon recording of the order or warrant, the agency or officer shall as soon as possible thereafter cause to be returned to the clerk of the circuit court that prepared the certified copy, the original of that certified copy reflecting the recording of the copy in the County Clerk Lien Record and the date of the recording. The clerk shall then cause to be entered in the register a notation reflecting the recording of the order or warrant in the County Clerk Lien Record and the date of the recording.

(4) Nothing in this section shall be construed to affect the status of liens created by, or require the transfer from, any judgment docket to any County Clerk Lien Record of any order or warrant docketed in a judgment docket before October 3, 1989.

205.525 Satisfaction of orders or warrants issued by state agency or officer; interest on penalties imposed by orders; recording release of lien in County Clerk Lien Record.

(1) Interest on a penalty imposed by an order shall run from the date of issuance of a final order at the rate provided for interest on judgments provided for in ORS 82.010 unless the penalty is paid within the time allowed by law.

(2) An order or warrant may be satisfied by payment of the amount due under the order or warrant, any penalties or interest accruing in connection with the order or warrant under law, and all costs incurred by the agency in connection with recording, indexing or service of the order or warrant and the satisfaction thereof. When an order or warrant has been fully satisfied it shall be the responsibility of the agency or officer that issued the order or warrant to record a full satisfaction in each county in which the order or warrant was recorded.

(3) The lien of an order or warrant may be released only by the officer or agency that issued the order or warrant. A release of the lien may be recorded in the County Clerk Lien Record in which the order or warrant was recorded. If the officer or agency records a release, the cost of recording or indexing

the release may be recovered in advance from the person seeking the release.

205.990 Penalties. Any officer who violates ORS 205.510 (1) shall be deemed guilty of official misconduct and punished therefor as provided

ORS 206 — Sheriffs

- 206.010 General duties of sheriff
- 206.015 Qualifications of sheriff; certification as police officer; determination of eligibility to be candidate for election to office of sheriff
- 206.020 Keeping records of and disposition of fees
- 206.030 Duty to execute process and make return; taking concealed personal property; use of force
- 206.040 Execution of process and service of papers
- 206.050 Commanding assistance in process serving
- 206.060 When sheriff justified in executing process
- 206.070 Excusing liability of sheriff in execution of process
- 206.080 Certificate of election or appointment to new sheriff; service on former sheriff
- 206.090 Delivery of jail, process and prisoners to new sheriff
- 206.100 Written assignment of items delivered
- 206.110 Return of process by former sheriff; completion of execution of process by successor; duty of successor as to defective or lost deeds
- 206.120 Disposition of money in custody when office vacant
- 206.180 Location of sheriff's office
- 206.210 Authority of sheriff over organization of office
- 206.310 Service of papers on sheriff
- 206.315 Expenses of sheriff in conveying convicts and persons with mental illness to state institutions
- 206.325 Expenses of sheriff in caring for property in custody
- 206.330 Sheriff entitled to rewards
- 206.345 Contracts with cities; authority under contract
- 206.355 Unauthorized use of uniform prohibited
- 206.991 Penalties

206.010 General duties of sheriff. The sheriff is the chief executive officer and conservator of the peace of the county. In the execution of the office of sheriff, it is the sheriff's duty to:

- (1) Arrest and commit to prison all persons who break the peace, or attempt to break it, and all persons guilty of public offenses.
- (2) Defend the county against those who, by riot or otherwise, endanger the public peace or safety.
- (3) Execute the process and orders of the courts of justice or of judicial officers, when delivered to the sheriff for that purpose, according to law.
- (4) Execute all warrants delivered to the sheriff for that purpose by other public officers, according to law.
- (5) Attend, upon call, the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court, justice court or county court held within the county, and to obey its lawful orders or directions.

206.015 Qualifications of sheriff; certification as police officer; determination of eligibility to be candidate for election to office of sheriff.

- (1) A person is not eligible to be a candidate for election or appointment to the office of

sheriff unless:

- (a) The person is 21 years of age or older;
- (b) The person has at least four years' experience as a full-time law enforcement officer or at least two years' experience as a full-time law enforcement officer with at least two years' post-high-school education; and
- (c) The person has not been convicted of a felony or of any other crime that would prevent the person from being certified as a police officer under ORS 181.610 to 181.712.

(2) As used in subsection (1) of this section, "two years' post-high-school education" means four semesters or six quarters of classroom education in a formal course of study undertaken after graduation from high school in any accredited college or university. The term does not include apprenticeship or on-the-job training.

(3) If the person is not certified as a police officer by the Department of Public Safety Standards and Training at the time of accepting appointment or filing as a candidate, a person elected or appointed to the office of sheriff must obtain the certification not later than one year after taking office. A copy of the certification shall be filed with the county clerk or the county official in charge of elections. The county governing body shall declare the office of sheriff vacant when the person serving as sheriff is not certified as a police officer within one year after taking office.

(4) The Department of Public Safety Standards and Training, in consultation with the Board on Public Safety Standards and Training, shall establish a procedure for determining whether an individual is eligible under subsection (1) of this section to be a candidate for election to the office of sheriff. A copy of the department's determination of an individual's eligibility to be a candidate for election to the office of sheriff shall be filed with the county clerk or county official in charge of elections not later than the 61st day before the date of the election. If the department determines that the individual is not eligible to be a candidate for election to the office of sheriff, the county clerk or county official in charge of elections shall not place the name of the individual on the ballot at the election.

206.020 Keeping records of and disposition of fees.

(1) Every sheriff shall keep in the sheriff's office a fee book or a system of receipts which shall be a public record, and in which shall be entered promptly all items of services performed and fees collected, with the name of the person for whom such services were performed, and the amount collected.

(2) The sheriff shall deposit each month with the county treasurer all such sums collected by the sheriff during the month next preceding, except the sums received for the care or preservation of property, and shall take the treasurer's duplicate receipts therefor, which receipts shall specify the kind of service performed, for whom performed, and the amount received for such service.

(3) The sheriff shall immediately file one of the receipts with the county accountant and, if there is no county accountant, with the county clerk.

206.030 Duty to execute process and make return; taking concealed personal property; use of force. An officer to whom any process, order or paper is delivered shall execute or serve it according to its command or direction, or as required by law, and must make a written return of the execution or service thereof. If a sheriff is directed by a court to take personal property into custody at a specific premises, and the property is concealed in a building or enclosure, the sheriff shall demand its delivery. If delivery is not made, the sheriff shall use such reasonable force as is necessary to enter into the building or enclosure and take the property into possession.

206.040 Execution of process and service of papers. When any process, order or paper is delivered to an officer, to be executed or served, the officer shall deliver to the person delivering it, if required, on payment of the fee, a written memorandum, specifying the names of the parties in the process, order or paper, the general nature thereof and the day on which it was received. The officer shall also, when required

by law, or upon the request of the party served, without fee, deliver to the party a copy thereof.

206.050 Commanding assistance in process serving.

(1) When an officer finds, or has reason to apprehend, that resistance will be made to the execution or service of any process, order or paper delivered to the officer for execution or service, and authorized by law, the officer may command as many adult inhabitants of the county of the officer as the officer may think proper and necessary to assist the officer in overcoming the resistance, and if necessary, in seizing, arresting and confining the resisters and their aiders and abettors, to be punished according to law.

(2) National Guard members are exempt from any service commanded under subsection (1) of this section while they continue to be active members.

206.060 When sheriff justified in executing process. A sheriff is justified in the execution of process regular on its face, and appearing to have been issued by competent authority, whatever may be the defect in the proceedings in which it was issued.

206.070 Excusing liability of sheriff in execution of process. No direction or authority by a party or the attorney of the party to a sheriff or the officer of the sheriff, in respect to the execution of process or the return thereof, or to any act or omission relating thereto, can be shown to discharge or excuse the sheriff from a liability for neglect or misconduct, unless it is contained in a writing signed by the party to be charged or affected thereby or the attorney of the party.

206.080 Certificate of election or appointment to new sheriff; service on former sheriff. When a new sheriff is elected or appointed, and has qualified, the county clerk shall give the new sheriff a certificate of that fact, under the seal of office of the county clerk. Whenever thereafter the new sheriff is authorized by statute to enter upon the duties of the office, the new sheriff shall serve such certificate upon the former sheriff, from which time the powers of the former sheriff cease, except when otherwise specially provided.

206.090 Delivery of jail, process and prisoners to new sheriff. Within one day after the service of the certificate referred to in ORS 206.080 upon the former sheriff, the former sheriff shall deliver to the successor:

(1) The jail of the county, with its appurtenances and the property of the county therein.

(2) The prisoners then confined in the county jail.

(3) The process or other papers in the custody of the former sheriff, authorizing or relating to the confinement of the prisoners, or if they have been returned, a written memorandum of them and the time and place of their return.

(4) All process for the arrest of a party, and all papers relating to the summoning of jurors which have not been fully executed.

(5) All executions and final process, except those which the former sheriff has executed, or has begun to execute, by the collection of money or a levy on property.

(6) All process or other papers for the enforcement of a provisional remedy not fully executed.

206.100 Written assignment of items delivered. The former sheriff shall also at the time referred to in ORS 206.090 deliver to the new sheriff a written assignment of the property, process, papers and prisoners delivered. The new sheriff shall thereupon acknowledge in writing, upon the assignment, the receipt of the property, process, papers and prisoners therein specified, furnish the former sheriff a certified copy thereof and file the original in the county clerk's office.

206.110 Return of process by former sheriff; completion of execution of process by successor; duty of successor as to defective or lost deeds.

(1) The former sheriff shall return all process, whether before or after judgment, which the

former sheriff has fully executed, and the new sheriff and the successor in office shall complete the execution of all final process which the predecessor commenced and did not complete.

(2) In all cases where real property is sold under execution by any sheriff, and the sheriff fails or neglects during the term of office of the sheriff, by virtue of the expiration thereof, or otherwise, to make or execute a proper sheriff's deed conveying the property to the purchaser, or if through mistake in its execution, or otherwise, any sheriff's deed is inoperative, or if by reason of the loss of an unrecorded sheriff's deed, the purchaser, the heirs or assigns or successors in interest of the purchaser desire the execution of another sheriff's deed, the sheriff in office at any time after the purchaser is entitled to a deed shall execute such conveyance. When executed to cure or replace a defective or lost deed such conveyance shall be to the grantee in the defective or lost deed, but shall relate back and be deemed to take effect as of the date of the execution of the defective or lost deed so as to inure to the benefit of the heirs and assigns, or other successors in interest, of the grantee named therein. Such conveyance so executed by the sheriff in office shall have the same force and effect as if executed by the sheriff who made the sale.

206.120 Disposition of money in custody when office vacant. When the official term of office of any sheriff ends by expiration of the term, death, resignation, removal from office or otherwise, the money in the custody of the sheriff by virtue of the office of the sheriff, belonging to the county or litigants, shall be turned over immediately to the successor in office, and duplicate itemized receipts therefor immediately shall be filed with the county treasurer.

206.180 Location of sheriff's office. The sheriff of each county shall keep an office in such room or building, at the place appointed by law for holding courts therein, as the county court may by order designate.

206.210 Authority of sheriff over organization of office. Notwithstanding the provisions of ORS 241.016 to 241.990 or any other county civil service law or regulation, the sheriff may organize the work of the office of the sheriff so that:

(1) The various duties required of the office may be assigned to appropriate departments and divisions to be performed by persons experienced and qualified for such respective kinds of work.

(2) The duties of the various assistants, officers and deputies of the sheriff are coordinated so that, when not engaged in a particular duty specified or directed to be done and not then requiring attention, such persons shall perform the other duties required of the office and then required to be done.

(3) The cooperation among assistants, officers, deputies and employees in the departments and divisions may be secured for the purposes of avoiding duplication of time and effort.

206.310 Service of papers on sheriff. Personal service of a paper upon the sheriff may be made by delivering it to a person belonging to and in the office during office hours, or if no such person is there, by leaving it in the office, or if the office is not open, by delivering it to the county clerk or the deputy of the county clerk, at the county clerk's office.

206.315 Expenses of sheriff in conveying convicts and persons with mental illness to state institutions.

(1) A sheriff is entitled to receive from the county the actual and necessary expenses of the sheriff incurred in transporting and conveying convicts and parole violators to a Department of Corrections institution and persons with mental illness to a state mental hospital when conveyed by the sheriff in pursuance of the adjudication of an authorized tribunal of the state, to be audited and allowed as other claims against the county.

(2) All counties are entitled to receive reimbursement from the state in the amounts specified in subsection (3) of this section for the actual and necessary expenses incurred by the sheriff under subsection (1) of this section.

(3) Reimbursement by the state under subsection (2) of this section shall be as follows:

- (a) Full reimbursement for transporting and conveying persons with mental illness to a state mental hospital.
- (b) Full reimbursement for returning a parole violator to the state penitentiary.
- (c) Seventy-five percent reimbursement for transporting and conveying a convict to a Department of Corrections institution.

206.325 Expenses of sheriff in caring for property in custody. A sheriff is entitled to claim from the plaintiff or moving party in any account, action or proceeding such reasonable sums of money as the sheriff may have been compelled to pay or incur in the care of property in the custody of the sheriff, under attachment, execution or proceedings for the claim and delivery of personal property.

206.330 Sheriff entitled to rewards. The sheriff is entitled to demand and receive to the sheriff's own use any reward offered in pursuance of law for the apprehension of any person charged with or suspected of crime, when the sheriff has earned the same by a compliance with such offer.

206.345 Contracts with cities; authority under contract.

(1) A sheriff shall have authority to enter into contracts, jointly with the governing body of the county, on behalf of the county, as provided in ORS 190.010.

(2) During the existence of the contract, the sheriff and the deputies of the sheriff shall exercise such authority as may be vested in them by terms of the contract, including full power and authority to arrest for violations of all duly enacted ordinances of the contracting city.

206.355 Unauthorized use of uniform prohibited. No person other than a county sheriff, person designated by a county sheriff, or regularly salaried sheriff's deputy shall wear, use, copy or imitate in any manner the uniform of that county sheriff.

206.991 Penalties. Violation of ORS 206.355 is a Class A misdemeanor.

ORS 208 — County Treasurers

- 208.010 Receipt and disbursement of funds
- 208.020 Payment, nonpayment and interest on county orders
- 208.030 Redemption of county orders
- 208.040 Notation of amount of interest paid
- 208.050 Deposit of redeemed county orders with clerk
- 208.060 Cancellation of warrants received for obligations due county
- 208.070 Manner of keeping books
- 208.080 Inspection of books by county court; exhibit of moneys
- 208.090 Monthly financial statement
- 208.110 Crediting of moneys to proper funds; payment from funds
- 208.140 Annual settlement with county court
- 208.150 Delivery of property to successor
- 208.170 Administration of oaths
- 208.990 Penalties

208.010 Receipt and disbursement of funds. The county treasurer shall receive all moneys due and accruing to the county, and disburse the same on the proper orders, issued and attested by the county clerk.

208.020 Payment, nonpayment and interest on county orders. The county treasurer shall pay all orders of the county clerk when presented, if there is money in the treasury for that purpose, and write on

the face of such orders the date of redemption and the signature of the county treasurer. If there are no funds to pay an order when presented, the county treasurer shall indorse thereon "Not paid for want of funds," and the date of presentment, over the signature of the county treasurer, which shall entitle such order thenceforth to draw legal interest; provided, the county court of any county, sitting for the transaction of county business, may, at any regular term thereof, by order duly made and entered of record, prescribe a rate of interest less than the legal rate, and after a rate of interest less than the legal rate is so prescribed, all orders of the county clerk issued while such orders remain unrevoked shall show upon their face the rate of interest so fixed by the court, which rate they shall bear. Such interest shall cease from the date of notice by publication in some newspaper circulated in the county, to be given by the county treasurer, when the county treasurer has as much as \$15,000 belonging to the county fund, that there are funds to redeem the outstanding orders.

208.030 Redemption of county orders. County orders shall be redeemed by the treasurer according to the priority of the time of presentment. Such orders, payable out of the county revenue, shall be received in payment of county taxes without any regard to priority of presentment or number, but the treasurer shall not pay any balance thereon over and above such tax when there are outstanding orders unpaid for want of funds.

208.040 Notation of amount of interest paid. When the county treasurer redeems any order on which interest is due, the county treasurer shall note on such order the amount of interest paid thereon, and shall enter on the account the amount of such interest, distinct from the principal.

208.050 Deposit of redeemed county orders with clerk. The treasurer shall, on the first Monday of each month, deposit with the county clerk all county orders redeemed. The county clerk shall receipt therefor.

208.060 Cancellation of warrants received for obligations due county. The county treasurer of any county may, upon order of the county court, cancel any county warrant which the county treasurer has been compelled to receive in payment of or as an offset to obligations due the county.

208.070 Manner of keeping books. The county treasurer shall so arrange and keep the books of the county treasurer that the amount received and paid out, on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate accounts, as well as the whole receipts and expenditures by one general account.

208.080 Inspection of books by county court; exhibit of moneys. The county treasurer shall at all times keep the books and office of the county treasurer subject to the inspection and examination of the county court. The county treasurer shall exhibit the money in the office of the county treasurer to such court at least once a year.

208.090 Monthly financial statement. The county treasurer of each county shall, on or before the 10th day of each calendar month, file with the county court a statement in writing showing, as of the first of the then calendar month:

- (1) The amount of cash on hand in the custody of the county treasurer as county treasurer;
- (2) The banks in which such funds are deposited, with the amounts so deposited in each bank;
- (3) The security furnished the county by each bank to cover such deposits, and the interest rates paid on such deposits; and
- (4) A statement of the amount of outstanding warrant indebtedness of the county and the date up to which the county's warrant indebtedness has been redeemed.

208.110 Crediting of moneys to proper funds; payment from funds. In all counties having a population of 100,000 or more, the county treasurer shall:

(1) Credit all fees, moneys received in trust for litigants or other persons and all other public moneys, except tax moneys, to the proper funds.

(2) Keep a trust fund for each public officer receiving money in trust for litigants or other persons.

(3) Pay out money from any such trust fund to the persons entitled to the same upon the order of any such officer.

(4) Receive checks, drafts and money orders for any such officer for collection only.

(5) If a check, draft or money order received under subsection (4) of this section is returned to the treasurer unpaid, charge the same to the account of such officer.

208.140 Annual settlement with county court. The county treasurer shall annually make complete settlement with the county court at the regular January term thereof.

208.150 Delivery of property to successor. The county treasurer shall, at the expiration of the term of the county treasurer, deliver to the successor of the county treasurer all public money, books and papers in the possession of the county treasurer.

208.170 Administration of oaths. The county treasurer and the deputy of the county treasurer are authorized to administer all oaths necessary in the discharge of the duties of their office.

208.990 Penalties. Any county treasurer failing to comply with ORS 208.020 for a period of 10 days commits a Class A violation and the court shall impose a fine of not less than \$500.

ORS 209 — County Surveyors

209.005 Definitions

209.015 Authority to enter upon land; no unnecessary damage; notice

209.020 Surveys on court order; fees

209.030 Surveys on court order of land divided by county line; fees

209.040 Substitution when county surveyor interested in land

209.070 Duties in respect to surveys

209.080 Compensation of county surveyor

209.090 Procuring and filing copies of plats and field notes of United States surveys; copies as evidence

209.100 Administering oaths

209.115 Qualifications of county surveyor

209.130 Establishment of corners; references; additional reference using coordinate system

209.140 Necessary interference with corners; prior notice to county surveyor required; exception for emergency; fees

209.150 Removal or destruction of monument; notice to county surveyor; replacement of monument; exception

209.155 Removal or destruction of monument during road construction; survey map in lieu of replacement; delineation of newly defined right of way

209.200 Resurvey of government-surveyed lands

209.220 Oath taken by employees

209.230 Materials and equipment for certain purposes

209.250 Survey by registered land surveyor; requirements for map, narrative or report of survey; waiver of required filing; effect of noncompliance

209.255 Amendment of survey map or narrative by affidavit of correction; preparation, certification and recording of affidavit

209.260 Fee for filing and indexing maps or reports of surveys

209.270 Records of county surveyor; location; accessibility
209.300 Abandonment of railroad line; notice to county surveyor; request for copies of plats
209.990 Penalties; civil remedies

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

- (1) “Control point” means a horizontal or vertical survey position set within the stated precision of the survey.
- (2) “County surveyor” means an individual appointed or elected to the office of county surveyor and who is responsible for performing the duties of such office as described by law.
- (3) “Deputy county surveyor” means an individual appointed by the county surveyor to the office of deputy county surveyor.
- (4) “Geodetic control” means horizontal or vertical survey monuments that are primarily intended to be used as reference positions for other surveys or that serve to extend the national geodetic control network.
- (5) “Monument” means any permanent material object or collection of objects, either natural or man-made, that indicates the position on the ground of a survey station, public land survey corner or accessories, or a land boundary corner established by a qualified surveyor.
- (6) “Public land survey corner” means a section corner, one-quarter section corner, Donation Land Claim corner, meander corner, witness corner or any other corner established by the General Land Office or its successor.
- (7) “Registered professional land surveyor” has the meaning given that term in ORS 672.002.

209.015 Authority to enter upon land; no unnecessary damage; notice.

- (1) Subject to subsection (3) of this section, the county surveyor, and employees and agents of the county surveyor, may enter upon any land for the purpose of surveying or performing any work necessary to carry out existing laws and may establish permanent survey monuments.
- (2) Any person exercising the right of entry granted under subsection (1) of this section shall do so with no unnecessary damage to the land entered upon.
- (3) A county surveyor or any employee or agent of the county surveyor shall not enter upon or establish any permanent survey monument upon any property without first providing notice to the landowner or landowners and the occupant of the property.

209.020 Surveys on court order; fees. The county surveyor shall execute all orders directed to the surveyor by any court of record or county court for surveying roads, or surveying or resurveying any tract of land the title to which is in dispute before such court, and all orders of survey for the partition of real estate. The county surveyor may charge and collect a fee that will reimburse the county for work performed under this section.

209.030 Surveys on court order of land divided by county line; fees. When lands the title to which is in dispute before any court are divided by a county line, the court making an order of survey may direct such order to the surveyor of any county in which any part of such land is situated. The county surveyor may charge and collect a fee that will reimburse the county for work performed under this section.

209.040 Substitution when county surveyor interested in land. When it appears that the county surveyor is interested in any tract of land, the title to which is in dispute before the court, the court shall direct the survey or resurvey to be made by a registered professional land surveyor, who is in nowise interested. The substitute surveyor shall be authorized to administer oaths in the same manner as the county surveyor, return the survey or resurvey on oath or affirmation and receive for the services the same fees that the county surveyor would receive for similar services.

209.070 Duties in respect to surveys. The county surveyor of each county shall:

(1) Keep a fair and correct record of all surveys made by the county surveyor and deputies thereof and by the county road official, all surveys received pursuant to ORS 209.250 and all surveys under ORS 368.106 or 368.206.

(2) Number progressively all surveys received and state by whom and, if provided, for whom made.

(3) Provide a copy of any survey to any person or court requiring the same, on payment of the fee allowed by law.

(4) Make all surveys of legal subdivisions with reference to the current United States Manual of Surveying Instructions.

(5) Establish or reestablish and maintain all public land survey corners, where evidence of the corners can be found and the corners can be positively located, and keep a separate record of the corners, giving the dates and names of persons present. When so established or reestablished such corner monuments shall be recognized as the legal and permanent corners.

(6) Establish or reestablish, upon order of the county court or board of county commissioners, all public land survey corners where all physical evidence is destroyed or cannot be found but where the official government notes are available, the corners to be reestablished in the manner provided in ORS 209.130 for establishing corners, and keep a separate record of the same, giving the date and names of persons present, and turn such record over to the surveyor's successor. When so established or reestablished such corner monuments shall be recognized as the legal and permanent corners.

(7) At the expiration of the term of office transfer all records to the successor.

209.080 Compensation of county surveyor. The compensation for the county surveyor shall be as determined by the county court or board of county commissioners, and paid out of the county treasury upon order of the county court.

209.090 Procuring and filing copies of plats and field notes of United States surveys; copies as evidence.

(1) The county court shall procure from the Bureau of Land Management a copy of the field notes and plats of all surveys and resurveys of public lands of townships, sections, Donation Land Claims, mineral claims, homesteads, meander lines or other similar surveys lying within its county. These shall include copies of the official plats and field notes of the survey and shall be filed in the office of the county surveyor.

(2) Copies, certified by the county surveyor, of copies of such field notes or plats filed in the office of the county surveyor by the county court shall be prima facie evidence.

209.100 Administering oaths. The county surveyor or a deputy may administer the oaths or affirmations necessary to the legal establishment of roads and other surveys, and to take the evidence of any person who may be produced to prove any point material to such survey.

209.115 Qualifications of county surveyor. An individual is not eligible to hold the office of county surveyor or deputy county surveyor unless the individual is a registered professional land surveyor.

209.130 Establishment of corners; references; additional reference using coordinate system.

(1) In the establishment or reestablishment of a public land survey corner, the county surveyor shall set a monument of durable quality. When a monument cannot be set at the exact corner position or it is not practicable to set a monument, then a witness corner monument shall be set.

(2) Section corners, Donation Land Claim corners, center corners and quarter-section corners shall be witnessed by at least four references. Meander corners, angle point corners or other approved

public land survey corners shall be witnessed by at least two references. References shall be of durable quality. All references shall be carefully described, and their bearings and distances noted in the report or on the survey.

(3) For the purpose of providing an additional reference, the county surveyor may, when maintaining or reestablishing survey corners, establish coordinates on public land survey corners using an Oregon Coordinate System pursuant to ORS 93.320 or another coordinate system, adopted by the appropriate public agency, that can be referenced directly to a geodetic control monument.

209.140 Necessary interference with corners; prior notice to county surveyor required; exception for emergency; fees.

(1) Any person or public agency that finds it necessary to interfere with or pave over any established public land survey corner or accessories for any reason, shall notify the county surveyor prior to the interference, who shall lower and witness the monument, or place another monument and witness over the existing monument or reference and replace or set a witness monument, as the case may demand, and record the proceedings in the record of permanent surveys. The county surveyor may charge a fee in an amount that will reimburse the county for the work performed.

(2) When an emergency exists and the county surveyor is unavailable, the person or public agency causing the interference shall cause a registered professional land surveyor to preserve the monument as required in subsection (1) of this section. The registered professional land surveyor referencing the monument shall notify the county surveyor of the references within two business days after the references or interference, whichever occurs first.

209.150 Removal or destruction of monument; notice to county surveyor; replacement of monument; exception.

(1) Any person or public agency removing, disturbing or destroying any survey monument of record in the office of the county surveyor or county clerk shall cause a registered professional land surveyor to reference and replace the monument within 90 days of the removal, disturbance or destruction. The registered professional land surveyor referencing and replacing the monument shall do so in the same manner that is provided for public land survey corners according to ORS 209.140 and shall notify the county surveyor of that action within two business days. The costs of referencing and replacing the survey monument shall be paid by the person or public agency causing the removal, disturbance or destruction.

(2) Notwithstanding subsection (1) of this section, a county surveyor may, upon written request and written notice to an affected property owner, provide written authorization to a registered professional land surveyor to remove a survey monument other than a public land survey corner as defined in ORS 209.005. A county surveyor may require that the position of the removed monument be referenced to another survey monument and noted on a survey map filed in accordance with ORS 209.250.

209.155 Removal or destruction of monument during road construction; survey map in lieu of replacement; delineation of newly defined right of way.

(1) Notwithstanding ORS 209.150, when a recorded survey monument, other than a public land survey corner, is removed, destroyed or disturbed as a result of construction or reconstruction of a public road, the survey monument does not have to be replaced if:

(a) The original location of the recorded survey monument is within the new right of way; and

(b) The person or public agency responsible for the construction or reconstruction causes a registered professional land surveyor to locate any survey monuments that are subject to removal, destruction or disturbance and to file a map, prior to the beginning of construction, with the county surveyor that identifies all existing recorded monuments, the existing right of way and controlling centerline and the survey control used to comply with this section.

(2) The newly defined right of way may be delineated by either of the following methods:

(a) All control points that define the right of way centerline are monumented or referenced with monuments. The right of way boundary is monumented at all angle points, points of curve, points of tangency and at least every 1,000 feet on long curves and tangents. A survey that identifies the survey control and the new right of way and controlling centerline shall be filed with the county surveyor within 180 days after completion of construction.

(b) A permanent survey control point network is established referencing the new right of way and controlling centerline. The network shall consist of at least three control monuments and must span the length of the project. Each control monument shall be intervisible with at least two other control monuments. At least two monuments on the network must be part of the original control used to locate the monuments described in subsection (1)(b) of this section. A map identifying the control network and the new right of way and controlling centerline shall be filed with the county surveyor within 180 days after completion of construction.

(3) The types of monuments shall be as described in ORS 92.060.

(4) The survey maps required by this section shall comply with ORS 209.250 and any other requirement of law.

(5) For the purpose of complying with subsection (1)(b) of this section, locating a survey monument may consist of establishing coordinates on the monument. These coordinates may be Oregon State Plane coordinates, Local Datum Plane coordinates or other coordinates compatible with those coordinates shown on the survey.

(6) For the purpose of complying with this section, the date of completion of construction shall be considered to be the date when all substantial road improvements are completed.

209.200 Resurvey of government-surveyed lands. In the resurvey of lands surveyed under the authority of the United States, the county surveyor or a registered professional land surveyor shall observe the following rules:

(1) Section and quarter-section corners, and all other corners established and approved by the General Land Office or its successors, must stand as the legal and permanent corners.

(2) A legal and permanent corner must be reestablished at the identical spot where the original corner was located by the government survey, when the identical spot can be determined.

(3) When the identical spot cannot be determined, the legal and permanent corner must be reestablished with reference to the current United States Manual of Surveying Instructions.

209.220 Oath taken by employees. Each person employed by the county surveyor or a deputy shall, before commencing the duty assigned, take an oath or affirmation faithfully and impartially to execute the duties of employment. The county surveyor or a deputy shall administer the oath or affirmation of each employee.

209.230 Materials and equipment for certain purposes. The county surveyor shall procure at the expense of the county the materials and requisites for carrying into effect ORS 209.100 to 209.230. The county court shall pay for the same and all expenses incurred therein out of the general fund of the county.

209.250 Survey by registered land surveyor; requirements for map, narrative or report of survey; waiver of required filing; effect of noncompliance.

(1) A registered professional land surveyor making a survey of lands within this state wherein the surveyor establishes or reestablishes a boundary monument shall, within 45 days thereafter, submit for filing a permanent map of the survey to the county surveyor for review. When filed, the map is a permanent public record in the office of the county surveyor. In establishing or reestablishing a public land survey corner, the surveyor shall comply with ORS 209.070 (4), 209.130 and 209.200. If the surveyor is unable to

complete the survey and submit a permanent map within 45 days, the surveyor shall, within 45 days of establishing or reestablishing a boundary monument, provide written notice to the county surveyor containing the reasons for the delay, an estimate of the amount of time reasonably necessary to complete the survey but not exceeding 180 days, and a temporary map showing the position of monuments established or reestablished.

(2) The permanent map must have a written narrative that may be on the face of the map. If the narrative is a separate document, the map and narrative must be referenced to each other. The map and narrative must be made on a suitable drafting material in the size required by the county surveyor. The lettering on the map and narrative must be of sufficient size and clarity to be reproduced clearly. The narrative must explain the purpose of the survey and how the boundary lines or other lines were established or reestablished and must state which deed records, deed elements, survey records, found survey monuments, plat records, road records or other pertinent data were controlling when establishing or reestablishing the lines. If the narrative is a separate document, the narrative must also contain the following:

- (a) Location of survey by one-fourth section, Township and Range.
- (b) The date of survey.
- (c) The surveyor's seal and original signature.
- (d) The surveyor's business name and address.

(3) A permanent map must show the following:

- (a) Location of survey by one-fourth section, Township and Range.
- (b) The date of survey.
- (c) Scale of drawing and North Arrow.
- (d) The distance and course of all lines traced or established, giving the basis of bearing and the measured distance and course to a monumented section corner, one-quarter corner, one-sixteenth corner or Donation Land Claim corner in Township and Range, or to a monumented lot or parcel corner or boundary corner of a recorded subdivision, partition or condominium.

(e) Measured bearings, angles and distances that are used as a basis for establishing or reestablishing lines or monuments separately indicated from those of record together with the recording reference. Metric measurements may be used if a conversion to feet is provided.

(f) Monuments set and their relation to older monuments found. A detailed description of monuments found and set must be included and monuments set must be separately indicated from those found.

- (g) The surveyor's seal and original signature.
- (h) The surveyor's business name and address.

(4) (a) Within 30 days of receiving a permanent map under this section, the county surveyor shall review the map to determine if it complies with subsections (1), (2) and (3) of this section and applicable local ordinances. A map must be indexed by the county surveyor within 30 days following a determination that the map is in compliance with this section. A survey prepared by the county surveyor in an official or private capacity must comply with subsections (1), (2) and (3) of this section.

(b) A survey map found not to be in compliance with subsection (1), (2) or (3) of this section must be returned within 30 days of receipt for correction to the surveyor who prepared the map. The surveyor shall return the corrected survey map to the county surveyor within 30 days of receipt of the survey map from the county surveyor.

(c) A map that is not corrected within the specified time period must be forwarded to the State Board of Examiners for Engineering and Land Surveying for action, as provided in subsection

(11) of this section.

(d) An action may not be maintained against the county surveyor for recording a survey map that does not comply with this section.

(e) An action may not be maintained against the county surveyor for refusal to file a survey map that does not comply with this section.

(5) (a) When a survey within this state is funded entirely or in part by public funds and the survey results in the establishment of horizontal or vertical monuments for geodetic control, the registered professional land surveyor performing the survey, within 45 days after completion of the survey, shall file a report of the survey with the county surveyors of those counties where the newly established monuments are located.

(b) Notwithstanding paragraph (a) of this subsection, the governing body of a county may, by resolution or order, waive the filing of the report of the survey.

(6) A report required by subsection (5)(a) of this section may include maps or diagrams. The maps or diagrams, if included, must be referenced to each other. The report must contain the following:

(a) The name and number of each newly established geodetic control monument.

(b) Location of newly established geodetic control monuments by Section, Township and Range.

(c) Location of the horizontal component of geodetic control monuments by the Oregon Coordinate System as described in ORS 93.320 and 93.330, including the scale factor, combined scale factor, convergence and geographic or geodetic coordinates, indicating datum used.

(d) Location of the vertical component of geodetic control monuments by orthometric height, ellipsoidal height and geoidal separation, indicating datum used.

(e) The date of survey.

(f) The business name and address of the surveyor.

(g) A description of all monuments set or found, including narrative or graphic information sufficient to locate the monuments.

(h) A statement explaining the purpose of the survey, the equipment and procedures used, including the geoid model and reference ellipsoid used, and the names or numbers of the found record control monuments used and their source.

(i) The scale of drawing and North Arrow if a map or diagram is included.

(j) The seal and original signature of the surveyor.

(k) For geodetic control, a statement regarding the network accuracy and local accuracy of the survey, categorized by horizontal position, ellipsoidal height and orthometric height, relative to the National Spatial Reference System. The statement shall include the accuracy classification at the 95 percent confidence level for both network and local classifications in accordance with Standards for Geodetic Control Networks, Part 2 of the federal Geospatial Positioning Accuracy Standards (FGDC 1998) for the newly established monuments.

(7) The county surveyor shall file and index reports that comply with subsections (5) and (6) of this section within 30 days of determining compliance.

(8) A monument set by a registered professional land surveyor to mark or reference a point on a property or land line or to mark or reference a geodetic control survey point must be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge or, if the monument is set by a public officer, the monument must be

marked with the official title of the office.

(9) If, in the performance of a survey, a registered professional land surveyor finds or makes changes in a public land survey corner or its accessories as described in an existing corner record or survey map in the office of the county surveyor, the surveyor shall complete and submit to the county surveyor a record of the changes found or made to a corner or accessories to the corner. The record must be submitted within 45 days of the corner visits, and must include the surveyor's seal and original signature, business name and address, and be on stable base reproducible material in the form required by the county surveyor.

(10) The signature and stamp of a registered professional land surveyor on a permanent survey map or plat constitutes certification that the map or plat complies with the applicable provisions of this chapter.

(11) A registered professional land surveyor failing to comply with the provisions of subsections (1) to (9) of this section, ORS 92.050 to 92.080 or a county ordinance establishing standards for surveys or plats is subject to disciplinary action by the State Board of Examiners for Engineering and Land Surveying.

(12) A federal or state agency, board or commission, special district or municipal corporation making a survey of lands within this state shall comply with this section.

209.255 Amendment of survey map or narrative by affidavit of correction; preparation, certification and recording of affidavit.

(1) Any survey map or narrative filed and recorded under the provisions of this chapter may be amended by an affidavit of correction:

- (a) To show any courses or distances omitted from the map or narrative;
- (b) To correct an error in any courses or distances shown on the map or narrative;
- (c) To correct an error in the description of the real property shown on the map or narrative; or
- (d) To correct any other errors or omissions where the error or omission is ascertainable from the data shown on the map or narrative as recorded.

(2) Nothing in this section shall be construed to permit changes in courses or distances for the purpose of redesigning parcel configurations.

(3) The affidavit of correction shall be prepared by the registered professional land surveyor who filed the map or narrative. In the event of the death, disability or retirement from practice of the surveyor who filed the map or narrative, the county surveyor may prepare the affidavit of correction. The affidavit shall set forth in detail the corrections made. The seal and original signature of the registered professional land surveyor making the affidavit shall be affixed to the affidavit.

(4) The county surveyor having jurisdiction of the map or narrative shall certify that the affidavit of correction has been examined and that the changes shown on the map or narrative are changes permitted under this section.

(5) The surveyor who prepared the affidavit shall cause the affidavit to be recorded in the office of the county recorder of the county where the survey or narrative is recorded. The county clerk shall promptly return the recorded affidavit to the county surveyor who shall note the correction and the recorder's filing information with permanent ink, upon the original survey or narrative filed in accordance with ORS 209.250. The corrections and filing information shall be marked in such a manner so as not to obliterate any portion of the survey or narrative.

(6) In addition to the fees established by ORS 205.320 for recording the affidavit in the county deed records, the county clerk shall collect a fee set by the county governing body. The county clerk shall collect the fee as set by the county governing body to be paid to the county surveyor for services pro-

vided under this section.

209.260 Fee for filing and indexing maps or reports of surveys. The county governing body, by resolution or order, may establish the fee to be collected by the county surveyor for filing and indexing a map or report of a survey.

209.270 Records of county surveyor; location; accessibility.

(1) The records of the county surveyor shall be located in county facilities designated by the county governing body.

(2) The county surveyor shall be provided reasonable facilities for the proper filing, indexing, copying, public inspection and examination and protection of public records as required under ORS 192.430 and 192.440.

209.300 Abandonment of railroad line; notice to county surveyor; request for copies of plats.

When a railroad gives notice of its intention to abandon a railroad line within this state, the Department of Transportation shall provide a copy of the notice to the county surveyor of each county in which the line to be abandoned is located. Upon written request from a county surveyor so notified, the railroad shall provide the county surveyor with a reproducible copy of the right of way plats for the line to be abandoned. The copy of the right of way plats shall be provided prior to abandonment at no cost to the county surveyor, and shall show the center line of trackage as originally constructed and currently existing, together with ties to monumented public land survey corners, as shown by the right of way plats.

209.990 Penalties; civil remedies.

(1) The costs of the reestablishment of the corner or witness monument may be recovered in a civil action together with costs and attorney fees for the prevailing party.

(2) A person may obtain injunctive relief to prevent further disturbance or destruction of survey monuments.

(3) Any county surveyor failing to perform the duties required of the surveyor by ORS 209.020 to 209.090 shall be fined not exceeding \$100, to be recovered by an action brought by the injured party.

ORS 210 — County Accountants

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210.100 Creation of office of county accountant. The governing body of any county may by ordinance create an office of county accountant.

210.120 Oath of accountant; bond or letter of credit; requirements for sureties and letter of credit issuers. The person appointed to the office of county accountant shall qualify within 30 days from the time of the appointment by taking and filing with the clerk of the county an oath to faithfully perform the duties of office, and by executing an official bond, with sureties to be approved by the board of county commissioners, or an irrevocable letter of credit, in either case in the sum of \$20,000. The bond or letter of credit shall contain a condition that the principal will faithfully perform the official duties then or which may thereafter be imposed upon or be required of the principal by law, and that at the expiration of the term of office the principal will surrender to any successor all property, books, papers and documents that may come into the possession of the principal. Any bond shall be executed by a lawfully authorized surety company, or by two sureties who shall each justify in the amount required by the bond; and any letter of credit shall be issued by an insured institution, as defined in ORS 706.008. When there are more than two sureties, or more than two letter of credit issuers, they shall justify in an amount which the aggregate shall equal double the amount of the bond or letter of credit. Every surety upon such official bond other than lawfully authorized surety companies must make an affidavit, which shall be indorsed upon the bond, that the surety is a resident and freeholder in the county in which the bond is filed, and worth in property situated in the county, exclusive of encumbrances thereon, double the amount of the undertaking over and above all sums for which the surety is already liable or in any manner bound, whether as principal, indorser or surety, and whether such prior obligation or liability is conditional or absolute, liquidated or unliquidated, due or to become due. All persons offered as sureties on official bonds may be examined on oath as to their qualifications by the officers whose duty it is to approve the bond.

210.130 Additional bond or letter of credit of accountant. Whenever, in the opinion of the board of county commissioners, the county accountant's letter of credit, bond or any surety thereon becomes insufficient, the board shall require an additional bond or letter of credit. An additional bond or letter of credit shall also be required when a surety to a bond dies or ceases to be a resident of the county. The county accountant or any of the deputies of the accountant, who are required by law to give bonds or letters of credit, may present as surety any lawfully authorized surety company, to be approved by the county commissioners, and the commissioners may pay the premium thereon.

210.140 Liability for acts of assistants. A county accountant shall be liable on the official bond required under ORS 210.120 or 210.130 for the acts and omissions of any deputies, assistants, clerks and employees appointed by the county accountant, and the official bond shall contain such a condition.

210.150 Bond or letter of credit of assistants. A county accountant may require the deputies, clerks, assistants and employees of the accountant to give bonds of indemnity, with sufficient sureties, or to give an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, for the faithful performance of their duties.

210.160 Auditing of accountant's salary claims; auditing of other demands. The demand of a county accountant for monthly salary shall be audited, allowed and ordered paid by the board of county commissioners. All other demands on account of salaries, or otherwise, fixed by law or otherwise and made payable out of the treasury, must be approved by the accountant before being ordered paid.

210.170 Auditing and allowing claims; financial records and reports.

(1) The county accountant shall be the accounting officer of the county. All demands, accounts or claims against the county shall be presented to the accountant with the necessary evidence in support thereof, and the accountant shall examine and audit the same. If the accountant finds such demands, accounts or claims correct, lawful, just and valid, and authorized by the board of county commissioners, the accountant shall indorse them as audited and approved, with the date thereof. After auditing and approving any such claim, the accountant shall draw an order on the county treasurer for the payment thereof, which order the county treasurer shall, when presented, either pay or indorse "Not paid for want of funds," as provided in ORS 208.020.

(2) If a demand, claim or account and evidence in support thereof is not sufficient to satisfy

the accountant as to its correctness, lawfulness, justness or validity, the accountant shall indorse the same as audited and rejected, with the date thereof, and report the same to the board of county commissioners with such explanation as the accountant may deem necessary.

(3) The accountant shall receive and preserve in the office of the accountant all accounts, books, vouchers, documents and papers relating to the accounts and contracts of the county, its debts, revenues and other financial affairs.

(4) The accountant shall give information as to the exact condition of the treasury and of every fund thereof upon demand by the board of county commissioners, or any member thereof.

(5) All claims approved and ordered paid shall be numbered consecutively, and the order drawn for the same shall designate the fund out of which it is payable.

210.180 Necessity for audit of all county payments. Any law or rule providing for the payment of any demand of any kind or nature, except the salary of the county accountant, out of the treasury or any fund thereof, whether from public funds or private funds deposited therein, shall be construed as requiring auditing and approval by the accountant, and an order of the board of county commissioners before payment. No order or warrant for the payment of any demand shall be valid, either in the hands of the original payee or holder, or any transferee or assignee thereof, unless the demand for which the same was issued shall have been first duly audited and approved by the accountant.

210.190 Limitations on allowance of claims. No demand shall be allowed by a county accountant in favor of:

(1) Any corporation or person in any manner indebted to the county, except for taxes not delinquent, without first deducting the amount of any indebtedness of which the accountant has notice.

(2) Any person having the collection, custody or disbursement of the public funds, unless the account of the person has been presented, passed upon, approved and allowed.

(3) Any officer who has neglected to make official returns or reports in the manner and at the time required by law or the requirements of the board of county commissioners.

(4) Any officer who has neglected to comply with any provision of law regulating the duties of the officer.

(5) Any officer or employee for time absent without legal cause from the duties of such officer or employee during office hours. The accountant must always examine on oath any person receiving a salary from the county touching such absence.

210.200 Claim investigational powers. A county accountant may administer oaths. The accountant may require any person presenting for settlement an account or claim for any cause against the county to be sworn before the accountant touching such account or claim, and when so sworn to answer orally as to any facts relative to the justice and items of such account or claim. No demand shall be approved, allowed, audited or paid unless it specifies each item, date and amount composing it.

210.210 Duties and powers of accountant. A county accountant shall:

(1) Keep a register of all claims presented against the county and place upon each a uniform mark or stamp, to indicate that it has been examined by the accountant.

(2) Keep an account with each department of the county government and with each county official.

(3) Check the deposits made with the county treasurer, by the several officers, of the fees received daily by them, and the fines, forfeited bails and all county, school, road, state or other funds received from any source and deposited with the county treasurer.

(4) Establish and maintain, in each department and office of the county, such system of

keeping accounts and transacting the county business as shall secure accuracy, economy and protection of the county's interests.

(5) At all times have access to any and all public books, records, and documents kept by the various officers of the county.

(6) See that all fees, dues or funds of any description, or on any account to which the county is entitled, are deposited with the county treasurer; and immediately report to the board of county commissioners any officer in default in this regard.

(7) Examine all reports of sheriffs, as to the collection of taxes, and all other general or special reports of officers or persons where any of the county's finances are involved, and report to the board of county commissioners findings and recommendations in each case.

(8) Prepare and publish, at the close of business on June 30 of each year, a statement showing the contracts entered into by the county for the year covered by the report, the name of the contractor, the work contracted for, the amount of the same, whether the bonds were required and the amount and whether let privately or by public bidding, and also publish a certified statement of the assets and liabilities of the county.

(9) Prepare at least once in each calendar year an exhibit of all receipts and disbursements of the county fund for the year. Such exhibit shall also include a detailed statement of the expenses of the county, segregated as to each office and each department of the county government and business, showing the total amounts for which warrants or orders were issued or drawn during the year, and a statement showing the total amount of money paid into the county treasury for the year, from what source derived, and the amounts apportioned to the various funds.

210.220 System of accounts and statements; inspection of books. A county accountant shall establish a standard system of keeping accounts and a uniform method of statements for the same. The books of the accountant shall at all times be subject to the inspection of the board of county commissioners, or any member thereof, and of the grand jury, or to any person or persons appointed by the board or by the grand jury to examine the same.

210.230 Preparation, distribution and use of official receipts.

(1) A county accountant shall have prepared suitable forms of receipts, and from time to time shall deliver to the treasurer and to every officer authorized by law to charge any fee, commission, percentage, allowance or compensation for the performance of any official duty, as many official receipts as may be required, charging such officers for them.

(2) When the books or rolls containing receipts are exhausted by the officer receiving them, the officer shall file a record of the receipts issued and keep the same in convenient form for examination.

(3) Whenever any receipt is issued by any officer, it shall contain the date issued, the name of the person making payment, the amount of payment, the nature of the service for which the charge is made and the name and official designation of the officer performing the service. Corresponding entries shall appear on each record of the receipt.

(4) The receipt shall be given to the person making payment, and at the close of each day a record of such receipts shall be filed with the accountant.

(5) Each officer receiving any fee, commission, percentage, allowance or compensation, as described in this section, shall, on or before the fourth day of each month, pay the same to the treasurer and take a receipt therefor.

(6) The treasurer shall, on or before the fifth day of each month, file duplicates of all receipts issued by the treasurer with the accountant.

(7) All such payments by officers to the treasurer shall be accompanied by an itemized

statement of the various services for which charges were made and the amount of each charge. Each officer shall file a duplicate of the statement with the accountant.

(8) Every officer receiving blank receipts from the accountant shall, on or before the fifth day of each month, exhibit to the accountant all unused receipts remaining.

ORS 215 — County Planning; Zoning; Housing Codes *{just to define Planning Dir}*

215.010 Definitions

215.020 Authority to establish county planning commissions

215.030 Membership of planning commission

215.042 Planning director

Rest of this section, ORS 215.044 to 215.799, are the State zoning and housing codes

215.010 Definitions. As used in this chapter:

(1) The terms defined in ORS 92.010 shall have the meanings given therein, except that “parcel”:

(a) Includes a unit of land created:

(A) By partitioning land as defined in ORS 92.010;

(B) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or

(C) By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.

(b) Does not include a unit of land created solely to establish a separate tax account.

(2) “Tract” means one or more contiguous lots or parcels under the same ownership.

(3) The terms defined in ORS chapter 197 shall have the meanings given therein.

(4) “Farm use” has the meaning given that term in ORS 215.203.

(5) “The Willamette Valley” is Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and the portion of Benton and Lane Counties lying east of the summit of the Coast Range.

215.020 Authority to establish county planning commissions.

(1) The governing body of any county may create and provide for the organization and operations of one or more county planning commissions.

(2) This section shall be liberally construed and shall include the authority to create more than one planning commission, or subcommittee of a commission, for a county or the use of a joint planning commission or other intergovernmental agency for planning as authorized by ORS 190.003 to 190.130.

215.030 Membership of planning commission.

(1) The county planning commission shall consist of five, seven or nine members appointed by the governing body for four-year terms, or until their respective successors are appointed and qualified; provided that in the first instance the terms of the initial members shall be staggered for one, two, three and four years.

(2) A commission member may be removed by the governing body, after hearing, for misconduct or nonperformance of duty.

conduct or nonperformance of duty.

(3) Any vacancy on the commission shall be filled by the governing body for the unexpired term.

(4) Members of the commission shall serve without compensation other than reimbursement for duly authorized expenses.

(5) Members of a commission shall be residents of the various geographic areas of the county. No more than two voting members shall be engaged principally in the buying, selling or developing of real estate for profit, as individuals, or be members of any partnership or officers or employees of any corporation that is engaged principally in the buying, selling or developing of real estate for profit. No more than two voting members shall be engaged in the same kind of occupation, business, trade or profession.

(6) The governing body may designate one or more officers of the county to be nonvoting members of the commission.

(7) Except for subsection (5) of this section, the governing body may provide by ordinance for alternative rules to those specified in this section.

215.042 Planning director.

(1) The governing body of each county shall designate an individual to serve as planning director for the county responsible for administration of planning. The governing body shall provide employees as necessary to assist the director in carrying out responsibilities. The director shall be the chief administrative officer in charge of the planning department of the county, if one is created.

(2) The director shall provide assistance, as requested, to the planning commission and shall coordinate the functions of the commission with other departments, agencies and officers of the county that are engaged in functions related to planning for the use of lands within the county.

(3) The director shall serve at the pleasure of the governing body of the county.

ORS 236 — (Workers) Eligibility; Resignations, Removals +Vacancies; Discipline

236.010 Causes for vacancies in office

236.020 Vacancy for breach of official bond

236.030 Persons ineligible for office because of membership in certain organizations

236.040 Leave of absence for Peace Corps volunteer; reinstatement

236.100 Political affiliation of person appointed to fill vacancy in partisan elective office

236.115 Diversity included in criteria for filling certain vacancies

236.140 Term, removal, vacancy in appointive offices

236.145 Employment prohibitions for state board or commission members

236.147 Exception to ORS 236.145

236.210 Filling vacancies in county offices; qualification

236.215 Filling vacancies in partisan elective office of county judge or commissioner

236.217 Nominations

236.220 Deputy to fill vacancy in certain offices until person appointed qualifies

236.225 Filling vacancies in offices of county governing body

236.240 Removal of county treasurer from office

236.310 Right of county commissioner to resign

236.320 Recipient of resignation

236.325 Resignation of office effective at future date; selection of successor; exception

236.350 Definitions for ORS 236.350 to 236.370

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TRANSFER OF PUBLIC EMPLOYEES

236.605 Definitions for ORS 236.605 to 236.640

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236.630 Authority of new employer over transferred employee

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236.990 Penalties

236.010 Causes for vacancies in office.

(1) An office shall become vacant before the expiration of the term if:

(a) The incumbent dies, resigns or is removed.

(b) The incumbent ceases to be an inhabitant of the district, county or city for which the incumbent was elected or appointed, or within which the duties of the office of the incumbent are required to be discharged.

(c) The incumbent is convicted of an infamous crime, or any offense involving the violation of the oath of the incumbent.

(d) The incumbent refuses or neglects to take the oath of office, or to give or renew the official bond of the incumbent, or to deposit such oath or bond within the time prescribed by law.

(e) The election or appointment of the incumbent is declared void by a competent tribunal.

(f) The incumbent is found to be a person with a mental illness by the decision of a competent tribunal.

(g) The incumbent ceases to possess any other qualification required for election or appointment to such office.

(h) Appointment of the incumbent is subject to Senate confirmation under section 4, Article III of the Oregon Constitution, and the appointment is not confirmed.

(2) The provisions of subsection (1)(b) of this section do not apply when residence within the district, county or city for which the incumbent was elected or appointed is not required for such election or appointment.

236.020 Vacancy for breach of official bond. The Governor shall declare vacant the office of every officer required by law to execute an official bond whenever a judgment is obtained against such officer for a breach of the conditions of the bond.

236.030 Persons ineligible for office because of membership in certain organizations.

(1) No person who is a member of, or affiliated with, any organization which teaches the doctrine of, or advocates, the overthrow of the Government of the United States by force or violence shall be a candidate for public office or eligible for appointment to a public office.

(2) The name of a person defined in subsection (1) of this section shall not be placed upon any ballot in connection with any election.

236.040 Leave of absence for Peace Corps volunteer; reinstatement.

(1) As used in this section:

(a) "Public officer or employee" means any person who renders service to and is paid therefor by a public employer.

(b) "Public employer" means the state or a county, city, school district or other public corporation, commission, agency, board or entity organized for a public purpose.

(2) Public employers shall grant leaves of absence without pay for at least two years to any full-time salaried public officer or employee who serves, and while the public officer or employee serves, as a volunteer in the Peace Corps. Upon expiration of the leave the public officer or employee shall have the right to be reinstated to the position held before the leave was granted and at the salary rates prevailing for such positions on the date of resumption of duty, without loss of seniority or other employment rights, if any. Failure of the officer or employee to report within 90 days after termination of service shall be cause for dismissal.

236.100 Political affiliation of person appointed to fill vacancy in partisan elective office.

(1) Except as provided in subsection (2) of this section, whenever a vacancy occurs in any partisan elective office in this state and is to be filled by appointment, no person shall be eligible for such appointment unless the person is affiliated, as determined by the appropriate entry on the person's official election registration card with the same political party:

(a) As that by which the elected predecessor in the office was designated on the election ballot, if the name of the predecessor was printed on the election ballot.

(b) As that by which the elected predecessor in the office was designated on the elector registration card of the predecessor on the date of the election at which the predecessor was elected, if the name of the predecessor was not printed on the ballot.

(2) Under either of the following circumstances, a person who is otherwise eligible for appointment to fill a vacancy described in subsection (1) of this section may be appointed to fill the vacancy regardless of the person's affiliation or lack of affiliation with a political party:

(a) If the name of the elected predecessor in the office was printed on the ballot and the predecessor was not designated on the election ballot as affiliated with a political party.

(b) If the name of the elected predecessor in the office was not printed on the ballot and the predecessor was not designated as affiliated with a political party on the elector registration card of the predecessor on the date of the election at which the predecessor was elected.

236.115 Diversity included in criteria for filling certain vacancies.

(1) In filling a vacancy on any new or existing appointive state board, commission, committee or council established by statute, if the vacancy is to be filled by a person who is not employed full-time and who is compensated as provided under ORS 292.495, the appointing authority shall include in the criteria for appointment, but need not limit the criteria to, the degree to which the candidate will contribute to one or more of the following:

(a) Diversity of viewpoint;

(b) Demographic variety reflecting the racial and gender population of the state or the region of appointment; and

(c) Remediation of existing disparities between the number of qualified applicants of one race or gender and the number of members of such groups serving on the board, commission, committee or council.

(2) The appointing authority for boards, commissions, committees and councils described under subsection (1) of this section shall report annually to the office of the Governor specifying the efforts taken to comply with this section and the result of those efforts.

236.140 Term, removal, vacancy in appointive offices. Any person holding an appointive office in any of the offices, departments or institutions of this state, shall hold the same for an indefinite term, not exceeding four years, and shall at all times be subject to removal by the appointive power which made the

appointment. The appointive power may in all cases appoint a successor.

236.145 Employment prohibitions for state board or commission members. A person who has been appointed by the Governor to serve on a state board or commission may not be employed by the board or commission in a salaried position:

- (1) While the person is serving on the board or commission; or
- (2) Within one year after the person's normal term on the board or commission expires, without regard to whether the person continues to serve on the board or commission after expiration of the person's term.

236.147 Exception to ORS 236.145. ORS 236.145 does not apply to any appointee to the position of executive director of a board who serves in that capacity as an ex officio member of the board making the appointment.

236.210 Filling vacancies in county offices; qualification.

- (1) When there is a vacancy in any elective county office other than the office of county judge or county commissioner, the county court or board of county commissioners shall appoint a person to perform the duties of the office until the vacancy is filled by election.
- (2) Except as provided in subsection (3) of this section, when a vacancy occurs in the non-partisan office of county judge who does not exercise judicial functions or county commissioner, the remaining members of the county court or board of county commissioners shall appoint a person to perform the duties of the office until the vacancy is filled by election.
- (3) When a vacancy occurs in the office of county judge who exercises judicial functions, the Governor shall fill the vacancy by appointment as provided in section 16, Article V of the Oregon Constitution.
- (4) Before a person appointed under subsection (1) or (2) of this section takes office, the person shall qualify in the same manner as required by law of the officer in whose place the person is appointed.

236.215 Filling vacancies in partisan elective office of county judge or commissioner.

- (1) When a vacancy occurs in the partisan elective office of county judge who does not exercise judicial functions or county commissioner, the remaining members of the county court or board of county commissioners of the county, pursuant to ORS 236.217, shall appoint a person qualified to hold office who is an elector of the county to perform the duties of the office until the term of office expires or the vacancy is filled by election.
- (2) When the provisions of ORS 236.217 apply, the appointment shall be made from a list of not fewer than three nor more than five nominees furnished by the county clerks. If fewer than three names of nominees are furnished or if no list is received by the appointing authority, the county court or board of county commissioners may consider additional qualified persons. The person so appointed must have been a member of the same major political party at least 180 days before the date the vacancy to be filled occurred.
- (3) The vacancy must be filled by appointment within 30 days after its occurrence.

236.217 Nominations. When any vacancy under ORS 236.215 exists in any partisan elective office of county judge who does not exercise judicial functions or county commissioner occupied by a member of a major political party and that vacancy is to be filled by an appointing authority as provided in ORS 236.215, the major political party pursuant to party rule shall nominate not fewer than three nor more than five qualified persons to fill the vacancy. The nominating procedure shall reflect the principle of one-person, one-vote to accord voting weight in proportion to the number of party members represented. At the request of a party making a nomination, the county clerk or chief elections officer of the county in which the va-

cancy exists shall assist the party in determining the number of electors registered as members of the party in the electoral district. As soon as the nominees have been appointed, but no later than 20 days after the vacancy occurs, the party shall notify the county clerk of the persons nominated. The county clerk shall notify the remaining members of the county court or board of county commissioners of the county in which the vacancy exists of the nominees.

236.220 Deputy to fill vacancy in certain offices until person appointed qualifies.

(1) During the interval between the time when a vacancy occurs in any county office, except the office of county commissioner, and the time when the person appointed by the county court or board of county commissioners to fill the vacant office qualifies therefor, the chief deputy of the affected office shall perform all the official acts and duties of such office.

(2) During the period the chief deputy serves as provided in subsection (1) of this section, the chief deputy shall be deemed to continue to occupy the position of chief deputy for the purpose of determining the status and rights of the chief deputy under the civil service law and Public Employees Retirement System, and such service shall in no respect affect the status or rights of the chief deputy under those systems.

236.225 Filling vacancies in offices of county governing body.

(1) If vacancies exist at the same time in all of the offices of members of a county governing body, two qualified persons shall be appointed by the Governor, and one by the appointees of the Governor, to perform the duties of the offices until the vacancies are filled as provided by law. If vacancies exist at the same time in all but one of such offices, the Governor shall appoint one qualified person who, with the incumbent serving in office, shall appoint another, each to perform the duties of the offices until the vacancies are filled. If county judge is one of the offices vacant, one of the appointments made by the Governor under this section shall be to the office of county judge.

(2) When a county charter establishes a county governing body with more than three members, if a number of vacancies exist at the same time in the offices of members of that governing body so that all the remaining members do not constitute a quorum for the conduct of county business, the Governor shall appoint to the vacant offices the minimum number of qualified persons sufficient, with the incumbent members of the county governing body, to form a quorum. Persons appointed by the Governor under this subsection, together with the incumbent members serving in office, shall appoint qualified persons to the remaining vacant offices. All persons appointed under this subsection shall perform the duties of the office of member of the county governing body until the vacancies are filled as provided by law.

(3) ORS 236.100 applies to appointments under this section.

236.240 Removal of county treasurer from office. Whenever suit has been commenced on the official bond of any delinquent treasurer, the delinquent treasurer may be removed by the county court of the county.

236.310 Right of county commissioner to resign. Any person who receives a certificate of election as a commissioner of the county court is at liberty to resign the office, though the person may not have entered upon the execution of its duties or taken the requisite oath of office.

236.320 Recipient of resignation.

(1) Resignation shall be made as follows:

(a) By the Secretary of State, State Treasurer and all officers elected by the legislature, to the Governor.

(b) By all officers who hold their offices by election, to the officer authorized by law to order a special election to fill the resulting vacancy.

(c) By all other officers holding their offices by appointment, to the body, board or

officer that appointed them.

(2) Resignations described in this section must be made in writing.

236.325 Resignation of office effective at future date; selection of successor; exception. Notwithstanding any other provision of law:

(1) The holder of a public office may resign the office effective at a future date that is prior to the expiration of the term of the office.

(2) Any person who receives a certificate of election as a holder of a public office, even though the person may not have entered upon the execution of its duties or taken the requisite oath of office, may resign the office effective at a future date that is:

(a) Prior to the beginning of the term of the office; or

(b) After the beginning of the term of the office.

(3) Except where an election is required by law, if the holder of a public office or a person who receives a certificate of election as a holder of a public office resigns the office effective at a future date, the appointing authority required by law to fill a vacancy in the public office may begin the process to fill the vacancy and may select a successor prior to the effective date of any resignation under this section.

(4) The appointing authority may appoint a successor to fill a vacancy in the public office at any time after the effective date of a resignation described in this section. This subsection does not apply where a person who receives a certificate of election as a holder of a public office resigns prior to the beginning of the term of office and an incumbent still holds the public office.

(5) A resignation is binding unless withdrawn in writing by the end of the third business day after the resignation is made.

(6) Where the effective date of a resignation is 21 or more calendar days before the deadline for filing a nominating petition, declaration of candidacy or certificate of nomination necessary to fill the office at the general election next following the effective date of the resignation, and the deadline for withdrawing the resignation has passed, the filing officer for the office shall accept filings of nominating petitions, declarations of candidacy and certificates of nomination and the vacancy shall be filled at the general election next following the effective date of the vacancy.

(7) This section does not apply to the office of Governor.

236.350 Definitions for ORS 236.350 to 236.370. As used in ORS 236.350 to 236.370:

(1) “Disciplinary action” means action taken against a public safety officer by an employer to punish the officer, including dismissal, demotion, suspension without pay, reduction in salary, written reprimand and transfer.

(2) “Just cause” means a cause reasonably related to the public safety officer’s ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies.

(3) “Public safety officer” means:

(a) A member of a law enforcement unit who is employed full-time as a peace officer commissioned by a city, port, school district, mass transit district, county, Indian reservation, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery Commission or the Governor and who is responsible for enforcing the criminal laws of this state or laws or ordinances relating to airport security.

(b) A corrections officer, a parole and probation officer or a youth correction officer as those terms are defined in ORS 181.610.

236.360 Disciplinary actions; written procedures; safeguards; just cause; notice.

(1) Employers of public safety officers shall adopt written procedures to implement the provisions of ORS 236.350 to 236.370.

(2) Except as provided in subsection (3) of this section, the following safeguards apply when a public safety officer is under investigation concerning a matter that the officer reasonably believes may lead to economic sanctions or dismissal from employment and is subject to an interview by the officer's employer:

(a) Unless the seriousness of an investigation requires otherwise, the interview must be conducted when the public safety officer is on duty or during the officer's normal waking hours. If the interview is conducted when the public safety officer is off duty, the officer must be compensated appropriately.

(b) The public safety officer may have a representative of the officer's choosing present at the interview.

(c) No more than two interviewers at a time may question the public safety officer.

(d) The interviewers shall inform the public safety officer of their authority to compel a statement and of the identity of the investigators and all persons present during the interview.

(e) The public safety officer is not required to answer questions until the officer has been informed of the nature of the investigation and of facts reasonably sufficient to inform the officer of the circumstances surrounding the allegations under investigation. This paragraph does not apply to preliminary questions directed at gaining a general overview of events in order to assess whether an inquiry is necessary and to effectively investigate and gather evidence.

(f) The interview may not last an unreasonable amount of time, taking into consideration the gravity and complexity of the matter under investigation.

(g) During the interview, the public safety officer must be allowed to attend to physical needs.

(h) (A) Except as provided in subparagraph (B) of this paragraph, the public safety officer being interviewed may not be threatened with punitive action or subjected to offensive language.

(B) In a compelled interview solely for noncriminal purposes, a public safety officer who refuses to respond to questions or to be interviewed must be informed that refusal may lead to disciplinary action.

(i) (A) The public safety officer may record the interview and must be given a copy of the tape or digital file of the interview and, upon request, a transcript of any recording that has been transcribed by the employer.

(B) The public safety officer must be given a copy of any written statement or report describing the officer's statements.

(C) Materials required to be given to the public safety officer under this paragraph must be given before subsequent interviews in the course of the same investigation.

(j) As soon as it is determined that the public safety officer may be charged with a criminal offense, the officer must be informed of the officer's right to consult with criminal defense counsel with respect to the criminal charge.

(k) In a disciplinary or administrative investigation, the public safety officer's chosen representative may not be required to disclose, or be subject to disciplinary action for refusing to disclose, statements made by the officer to the representative for purposes of the representation.

(3) The safeguards provided in subsection (2) of this section do not apply to:

(a) The questioning of a public safety officer in the normal course of informal verbal admonishment by, or other routine or unplanned contact with, a supervisor or other public safety officer; or

(b) An investigation concerned solely with alleged criminal activities.

(4) Disciplinary action may not be taken against a public safety officer without just cause.

(5) An employer that intends to take disciplinary action against a public safety officer shall:

(a) Notify the officer in writing of the charges against the officer and the proposed disciplinary action; and

(b) Provide the officer with an opportunity to respond to the charges at an informal hearing which may be recorded, with the person or persons having authority to impose the proposed disciplinary action.

(6) (a) Except as provided in paragraphs (b) and (c) of this subsection, an employer shall complete its investigation into an allegation of misconduct by a public safety officer and provide notification under subsection (5)(a) of this section no later than six months from the date of the first interview described in subsection (2) of this section. The employer may extend the investigation to a maximum of 12 months from the date of the first interview, provided that, before the extended period begins, the employer provides written notice explaining the reason for the extension to the officer and the officer's chosen representative and union representative, if any.

(b) The time limit provided in paragraph (a) of this subsection does not apply:

(A) If the investigation involves an officer who is incapacitated or unavailable.

(B) If the investigation involves an allegation of workers' compensation or disability fraud by the officer.

(C) If the officer waives the limit in a signed writing.

(D) If the investigation requires a reasonable extension of time for coordination with one or more other jurisdictions.

(E) If the investigation involves more than one officer and requires a reasonable extension of time.

(c) For the purposes of the time limit provided in paragraph (a) of this subsection:

(A) If the alleged misconduct is also the subject of a criminal investigation or criminal prosecution, time does not run for the period during which the criminal investigation or criminal prosecution is pending.

(B) If the investigation involves a matter in civil litigation in which the officer is a named defendant or the officer's actions are alleged to be a basis for liability, time does not run for the period during which the civil action is pending.

(C) If the investigation is the result of a complaint by a person charged with a crime, time does not run for the period during which the criminal matter is pending.

(7) An investigation may be reopened if:

(a) Significant new evidence is discovered that is likely to affect the outcome of the investigation; and

(b) (A) The evidence resulted from the public safety officer's predisciplinary response; or

(B) The evidence could not have been discovered by the employer without resorting to extraordinary measures.

236.370 ORS 236.350 to 236.370 not applicable to certain public safety officers. ORS 236.350 to 236.370 do not apply to disciplinary action taken against public safety officers who are:

(1) In an initial probationary period of employment that does not exceed 12 months or in a probationary period under a collective bargaining agreement which is in excess of 12 months;

(2) Under a collective bargaining agreement requiring just cause for disciplinary action;

(3) Under a county civil service system adopted pursuant to ORS 241.002 to 241.009;

(4) Under a county or municipal civil service system which provides public safety officers with disciplinary action protections at least equivalent to those provided under ORS 236.350 and 236.360;

(5) The chief executive officers of law enforcement units, as defined in ORS 181.610; or

(6) Supervisory employees, as defined under ORS 243.650, where a collective bargaining agreement is in effect with their public employer.

(7) Represented in a collective bargaining unit if the collective bargaining agreement provides for procedures and safeguards of the sort provided for in ORS 236.350 to 236.370.

TRANSFER OF PUBLIC EMPLOYEES

236.605 Definitions for ORS 236.605 to 236.640. As used in ORS 236.605 to 236.640:

(1) “Public employee” means an employee whose compensation is paid from public funds.

(2) “Public employer” includes the state, or cities, or counties, or special districts but not including school districts, or an Oregon nonprofit corporation any of which has accepted the transfer of a public program from a public employer in this state for maintenance and operation.

236.610 Rights of employee when duties assumed by different public employer; employer duties.

(1) No public employee shall be deprived of employment solely because the duties of employment have been assumed or acquired by another public employer, whether or not an agreement, annexation or consolidation with the present employer is involved. Notwithstanding any statute, charter, ordinance or resolution, but subject to ORS 236.605 to 236.640, the public employee shall be transferred to the employment of the public employer that assumed or acquired the duties of the public employee, without further civil service examination.

(2) The transferred public employee shall not have the employee’s salary reduced as a result of a transfer under this section during the first 12 months of employment with the receiving employer. After the first 12 months of employment with the receiving employer, the transferred public employee shall be placed at the closest salary for the position as designated under the receiving employer’s salary schedule.

(3) It is the responsibility of the transferring employer to liquidate accrued compensatory time at the time of transfer, consistent with any applicable statute or collective bargaining agreement.

(4) (a) At the time of transfer, the transferred public employee may elect to:

(A) Retain any accrued sick leave;

(B) Retain up to 80 hours of vacation leave; and

(C) Retain additional vacation leave if agreed to by the transferring employer, the receiving employer and the transferred public employee.

(b) At the time of transfer, the transferring employer shall pay to the receiving employer a sum equal to the number of hours of accrued leave retained times the employee’s hourly rate of

pay.

(c) After the transfer, the receiving employer shall grant any leaves according to its rules or any bargaining agreement governing use of leaves.

(5) In the event that any transferred employee is subject to a waiting period for coverage of preexisting conditions under the health insurance plan of the receiving employer, the receiving employer shall arrange for a waiver of such waiting period with its health insurer. The transferring employer shall reimburse the receiving employer for the additional premium costs, if any, resulting from such waiver, for a period of not to exceed 12 months.

(6) In transferring a public employee under subsection (1) of this section, the employer shall furnish the employment records of that employee to the receiving employer at the time of transfer. The time of transfer shall be by written agreement between the public employers involved.

(7) If the public employer that is transferring a public employee participates in the Public Employees Retirement System, the transferring employer and the receiving employer must enter into a written agreement that addresses the manner in which any unfunded Public Employees Retirement System liability or surplus of the transferring public employer will be paid or credited, as required by ORS 238.231.

236.620 Status of transferred employee.

(1) A public employer who receives a transferred employee under ORS 236.610 (1), including an employee whose transfer is provided for by an agreement under ORS 190.010, shall place that employee on its employee roster, subject to the following:

(a) If the employee was serving a probationary period with the employer at the time of transfer, the past service of the employee on probation shall apply on the regular probation requirements of the receiving employer.

(b) Notwithstanding any other provision of law applicable to a retirement system for employees of the prior employer or of the receiving employer, but subject to subsection (2) of this section, the employee at the option of the employee may elect to continue for 12 months under any retirement system in which the employee was participating prior to transfer or, if the employee meets the qualifications therefor, the employee may elect to participate in the retirement system available to employees of the receiving employer. The employee's election shall be in writing and made within 30 days after the date of transfer. If the employee elects to continue under the retirement system in which the employee was participating prior to transfer, the employee shall retain all rights and be entitled to all benefits under that system, the employee shall continue to make contributions to that system and the receiving employer shall make contributions on behalf of the employee to that system as required of employers participating in that system, as if the transfer had not occurred.

(c) The employee shall retain the seniority the employee accrued under prior employment, but no regular employee of the receiving employer shall be demoted or laid off by reason of that seniority at the time the transfer occurs. Thereafter, the employee's seniority from the transferring employer shall be regarded as seniority acquired under the receiving employer.

(d) The employee otherwise shall enjoy the same privileges, including benefits, hours and conditions of employment, and be subject to the same regulations as other employees of the receiving employer.

(2) The Public Employees Retirement Board may terminate membership in the Public Employees Retirement System for any transferred employee if the board determines that allowing membership for the employee would cause the system or the Public Employees Retirement Fund to lose qualification as a qualified governmental retirement plan and trust under the Internal Revenue Code and under regulations adopted pursuant to the Internal Revenue Code.

236.630 Authority of new employer over transferred employee. A public employer who receives

a transferred public employee under ORS 236.610 (1) shall place that employee in a position comparable to the position the employee enjoyed under prior employment, subject to the following:

(1) The receiving employer, in determining a comparable position, shall consider the employee's educational and physical qualifications, experience, and the salary, duties and responsibilities of prior employment.

(2) If the receiving employer finds that no comparable position exists under subsection (1) of this section, the employee shall be offered a lesser position, if such position is available, according to the qualifications of the employee, by the receiving employer. The finding and action of such employer under this subsection, and subsection (3) of this section shall be subject to a hearing upon the employee's request and subject to review under ORS 34.010 to 34.100.

(3) If the receiving employer finds that no position exists, the employee shall be listed as a regular laid-off employee and shall have priority to appointment over other persons eligible for any position for which the employee is qualified, subject to any applicable collective bargaining agreement.

236.640 Reemployment right of employee at end of cooperation agreement. At the end of a cooperation agreement the employee transferred shall be entitled to the position of the employee with the transferring employer prior to transfer, if the employee has remained an employee of the transferee employer in good standing to the termination of the agreement.

236.990 Penalties. Violation of ORS 236.145 is a Class A violation.

ORS 237 — Public Employee Retirement Generally

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COVERAGE OF EMPLOYEES UNDER FEDERAL SOCIAL SECURITY ACT

237.410 Definitions for ORS 237.420 to 237.515. As used in ORS 237.420 to 237.515, unless the context requires otherwise:

(1) “Public agency” or “political subdivision” means the State of Oregon, any city, county, municipal or public corporation or any political subdivision of the State of Oregon or any instrumentality thereof, or any school district, or any agency created by two or more political subdivisions to provide themselves governmental services, the employees of which constitute a coverage group. For purposes of ORS 237.420 to 237.515, such agency created by two or more political subdivisions is a governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

(2) “Coverage group” has the meaning given that term by the provisions of section 218 of title 2 of the federal Social Security Act, and amendments thereto, and applicable federal regulations adopted pursuant thereto.

237.411 Construction of ORS 237.412 to 237.418 as supplemental to ORS 237.420 to 237.515. The provisions of ORS 237.412 to 237.418 relating to Old Age and Survivors Insurance coverage are supplemental to ORS 237.420 to 237.515, and shall be so construed.

237.412 Declaration of policy regarding federal Social Security protection for employees of state and political subdivisions. In order to extend to employees of the State of Oregon, all the school districts and all the political subdivisions of the state participating in the Public Employees Retirement System immediately prior to March 27, 1953, and to the dependents and survivors of such employees, the basic protection accorded to others by the Old Age and Survivors Insurance system embodied in title 2 for the federal Social Security Act, it hereby is declared to be the policy of this state, subject to the limitations of ORS 237.412 to 237.418, that such action be taken, and hereby it is expressly authorized, as to provide such protection to employees of the state and its political subdivisions on as broad a basis as is permitted under applicable federal law.

237.414 Extension of federal Social Security benefits to employees of state and certain political subdivisions.

(1) The Public Employees Retirement Board hereby is authorized and directed to enter into an agreement or modification of such agreement with the Federal Security Administrator (United States Secretary of Health and Human Services) on behalf of the State of Oregon, consistent with the terms and provisions of ORS 237.412 to 237.418, for the purpose of extending the benefits of the Federal Old Age and Survivors Insurance system to employees of the state and the political subdivisions which at the time of repeal of chapter 401, Oregon Laws 1945, were participating in the Public Employees Retirement System established by that chapter. The board may authorize its director, on behalf of and in the name of the board, to sign modifications of the agreement including within the agreement legally qualified eligible public agencies.

(2) The agreement shall provide benefits for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title 2 of the Social Security Act.

(3) The duties and obligations of the state and its political subdivisions as employers, in relation to such agreement, shall be as provided by ORS 237.420 to 237.515.

(4) Such agreement or modification thereof shall be effective with respect to services performed after an effective date specified in such agreement or modification, but in no case prior to January 1, 1951.

(5) All services which:

(a) Constitute employment within the meaning of title 2 of the Social Security Act;

(b) Are performed in the employ of the state or a political subdivision or in the employ of an instrumentality of either the state or a political subdivision, or both; and

(c) Are covered by a plan which is in conformity with the terms of the agreement and which has been approved by the board, shall be covered by the agreement.

(6) The Public Employees Retirement Board hereby is authorized and directed to include in the agreement for Old Age and Survivors Insurance coverage to be executed by the board with the Federal Security Administrator (United States Secretary of Health and Human Services) in conformance with this section, the elective officers of the political subdivisions described in subsection (1) of this section, and the elective officers of the State of Oregon.

237.418 Authority of interstate agencies to extend federal Social Security benefits to their employees.

(1) Any instrumentality jointly created by this state and any other state or states hereby is authorized, to the extent that this state may confer authority, upon the granting of like authority by such other state or states:

(a) To enter into an agreement with the Federal Security Administrator (United States Secretary of Health and Human Services) whereby the benefits of the Federal Old Age and Survivors Insurance system shall be extended to employees of such instrumentality;

(b) To require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay if they were covered by an agreement made pursuant to ORS 237.414; and

(c) To make payments to the Secretary of the Treasury of the United States in accordance with such agreement, including payment from its own funds, and otherwise to comply with such agreement.

(2) Such agreement shall, to the extent practicable, be consistent with the terms and provisions of ORS 237.412 and 237.414.

237.420 Agreements to extend federal Social Security coverage to employees of public agencies not covered by ORS 237.414. The Public Employees Retirement Board established by ORS 237.952 shall, for the purposes of administration of this law, after March 27, 1953, succeed to the powers and duties of the Public Employees Retirement Board established by chapter 401, Oregon Laws 1945, as amended, and shall, upon application by any public agency in accordance with ORS 237.430 and 237.440, execute on behalf of the state an agreement or modification of such agreement, with the Federal Security Administrator (United States Secretary of Health and Human Services), or the designated agent or successor, for the coverage of employees of such public agency under the insurance system established by title 2 of the federal Social Security Act in conformity with the provisions of section 218 thereof and amendments thereto, and applicable federal regulations adopted pursuant thereto.

237.430 Public agencies to be included in the agreement. The agreement shall include each coverage group as to which formal request for inclusion is made by the legislative or governing body of the employing public agency pursuant to ORS 237.440, prior to the effective date of the agreement, or any modification thereof. However, the board shall not be required to include in any agreement or modification any public agency which is not entitled by law to share in any apportionment of state revenue or funds and has at any time within the 10 years next preceding the date of its application been insolvent or failed to pay when due, the principal or interest of its bonds, warrants or other obligations.

237.440 Application by political subdivision for inclusion. The legislative or governing body of every political subdivision may make formal application to the Public Employees Retirement Board for inclusion of the eligible employees of such political subdivision in the agreement or any modification thereof.

237.450 Starting date for contributions. Every public agency included in the agreement pursuant

to ORS 237.430 and 237.440 shall be liable for the contributions required to be remitted by an employer under the provisions of sections 3101 and 3111 of the federal Internal Revenue Code and amendments thereto, except that no contributions required by ORS 237.460 shall be withheld or remitted prior to July 1, 1951, or prior to the approval of the agreement by the Federal Security Administrator (United States Secretary of Health and Human Services).

237.460 Withholding and remitting of employees' contributions.

(1) Every public agency included in the agreement shall withhold from wages and salaries paid by it to officers and employees covered by the agreement, and remit to the retirement board, that portion required to be withheld from the salaries and wages of employees under the provisions of section 3101 of the federal Internal Revenue Code of 1954 and amendments thereto as required by section 218(e) of title 2 of the federal Social Security Act.

(2) The provisions of subsection (1) of this section requiring remission to the retirement board of amounts withheld from wages and salaries apply only to amounts withheld from wages and salaries that were paid on or before December 31, 1986. Amounts withheld from wages and salaries that were paid after December 31, 1986, shall be remitted to the Internal Revenue Service.

237.465 Employees required to contribute. All employees of the state, all employees of the school districts of the state and all employees of political subdivisions of the state subject to the agreement for Old Age and Survivors Insurance coverage, other than employees specifically excluded by that agreement, shall make contributions for such coverage as required by ORS 237.460.

237.470 Retirement board to promulgate regulations. The Public Employees Retirement Board shall promulgate regulations, not inconsistent with ORS 237.410 to 237.515, necessary to provide proper procedures to assure conformity with section 218 of title 2 of the federal Social Security Act and amendments thereto, and federal regulations adopted pursuant thereto. Such regulations shall include provisions governing application procedures, requiring an applicant to present proof satisfactory to the board of its ability to discharge its obligations under ORS 237.410 to 237.515, determining the extent of coverage within separate coverage groups, and provisions prescribing the time and manner of filing reports and making any payment required by ORS 237.410 to 237.515.

237.480 Procedure against employer failing to comply with regulations. If an employer fails to report or remit to the retirement board in the manner and within the time prescribed in the regulations adopted by the board, the board, without notice, may send an auditor to the office of the employer to examine its records and to obtain the necessary reports or remittances, the entire cost of such audit to be paid by the delinquent employer.

237.490 Deposit investment and payment of funds.

(1) All employer and employee contributions and other moneys received or collected by the Public Employees Retirement Board under ORS 237.410 to 237.515 shall be deposited into the State Treasury to the credit of an account, separate and distinct from the General Fund, to be known as the Social Security Revolving Account, and the moneys in the account are continuously appropriated for the purposes of ORS 237.410 to 237.515.

(2) All moneys in the account shall be held in trust and invested as provided in ORS 293.701 to 293.820. Interest from such investments shall be used first for paying the administrative expenses described in ORS 237.500 and not later than the 15th day of February, May, August and November, after paying the administrative expenses, as determined by the Public Employees Retirement Board, for the preceding calendar quarter, the balance of the interest remaining shall be available for general governmental expenses.

(3) The Oregon Department of Administrative Services may review all duly approved claims certified by the Public Employees Retirement Board for the payment of amounts required to be paid to the Secretary of the Treasury pursuant to agreements entered into under ORS 237.410 to 237.515, and for the

payment of necessary refunds and may issue warrants therefor payable out of the Social Security Revolving Account.

237.500 Administrative expenses. All expenses of the Public Employees Retirement Board in excess of those paid under ORS 237.490 (2) incurred in administering the provisions of ORS 237.410 to 237.515, including such proportion of the salary of the director, counsel, professional consultants and employees of the retirement board, as the time required of them for the administration of ORS 237.410 to 237.515 shall bear to the time required for the administration of both ORS 237.410 to 237.515 and the public employees retirement law, shall be paid in the manner provided by law, out of the Social Security Revolving Account. For such purpose, the board may make monthly withdrawals from said account in lump sums. The board may, under such rules as it promulgates, collect from each public agency its respective pro rata share of the expenses incurred in administering ORS 237.410 to 237.515. Each public agency included in the agreement pursuant to ORS 237.430 is required to pay its pro rata share of the expenses incurred by the board in administering ORS 237.410 to 237.515. In order to facilitate financing the administration of the system the board may designate fiscal periods and may provide that extraordinary expenses incurred during one such period, such as expenses for equipment, may, for purposes of equitably distributing part of the burden of the expenses, be apportioned to subsequent fiscal periods in such manner as to the board seems equitable.

237.510 Collection of delinquent contributions.

(1) Upon failure of any public agency to remit contributions to the retirement board as provided by ORS 237.460 or pay its pro rata share as provided by ORS 237.500 and determined by the board, the board may recover by action in a court of competent jurisdiction the amount due and unpaid.

(2) Any public agency delinquent in submitting remittances to the retirement board as provided in ORS 237.460 shall be charged interest on the total amount of remittance due from it at the rate of one percent per month or fraction thereof during which the agency is delinquent. Interest so paid shall be deposited in the Social Security Revolving Account and shall be used by the board in paying the expenses of administration and any penalties which the board may incur.

(3) In order to obtain prompt remittance of contributions and payment of obligations due under ORS 237.410 to 237.515, the board, in the event of delinquency of any public agency entitled by law to share in the apportionment of any state revenues or funds, shall certify the amount of such delinquency to the Oregon Department of Administrative Services, which shall pay the claim out of any revenues or funds in the State Treasury apportioned to the delinquent public agency.

(4) In addition to the remedies otherwise provided under this section, the board may, by petition in usual form, apply to the circuit court for the county in which is located the public agency concerned, or the principal office or place of business of such public agency, for, and if warranted, to have issued, writs of mandamus to compel such public agency to supply to the board a true and complete list and employment records of such agency's employees and all information concerning such employees that reasonably may be required and sought by the board in such petition. Such writs, among other things, shall direct the defendant therein to make such remittances as may appear, from records and information concerning such defendant's employees, to be required by law. Either or both parties thereby aggrieved may appeal to the Court of Appeals from, or from any part of, the judgment of the circuit court given and made in such proceeding, as in ordinary mandamus proceedings. If the court allows the issuance of a peremptory writ, the court shall award reasonable attorney fees, costs and disbursements to the board.

237.515 Exclusion of contributions from biennial budget. Contributions required by ORS 237.410 to 237.515 to be placed in the Social Security Revolving Account and thereafter remitted to the Secretary of the Treasury of the United States shall not be included in the biennial budget of the Public Employees Retirement Board as income or expenses of such board.

237.610 Definitions for ORS 237.610 and 237.620. As used in this section and ORS 237.620:

(1) "Firefighter" means:

(a) Persons employed by a city, county or district whose duties involve firefighting, but does not include volunteer firefighters; and

(b) The State Fire Marshal and the chief deputy fire marshal and deputy state fire marshals appointed under ORS 476.040.

(2) (a) "Police officer" includes:

(A) Police chiefs and police officers of a city who are classified as police officers by the council or other governing body of the city;

(B) Sheriffs and those deputy sheriffs whose duties, as classified by the county governing body, are the regular duties of police officers;

(C) County adult parole and probation officers, as defined in ORS 181.610, who are classified by the county governing body for purposes of this section and ORS 237.620;

(D) Corrections officers as defined in ORS 181.610;

(E) Employees of districts whose duties, as classified by the governing body of the district, are the regular duties of police officers; and

(F) Investigators of the Criminal Justice Division of the Department of Justice.

(b) "Police officer" does not include volunteer or reserve police officers or persons considered by the respective governing bodies to be civil deputies or clerical personnel.

(3) "Public employer" means any city, county or district that employs police officers or firefighters.

237.620 Membership of police officers and firefighters in Public Employees Retirement System.

(1) Except as provided in this section, all public employers of police officers or firefighters shall provide retirement benefits to those employees under the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, a public employer of police officers or firefighters need not provide retirement benefits to those employees under the Public Employees Retirement System if the Public Employees Retirement Board determines that the public employer provides retirement benefits to each of the following classes of employees that are equal to or better than the retirement benefits that would be provided to the equivalent classes of employees under the Public Employees Retirement System:

(a) Police officers or firefighters who are entitled to receive benefits only under ORS chapter 238 and who established membership in the system before January 1, 1996, as described in ORS 238.430 (2);

(b) Police officers or firefighters who are entitled to receive benefits only under ORS chapter 238 and who established membership in the system on or after January 1, 1996, and before August 29, 2003, as described in ORS 238A.025 (4); and

(c) Police officers or firefighters who establish membership in the system on or after August 29, 2003, and are entitled to benefits only under the Oregon Public Service Retirement Plan.

(3) At such times as may be established by board rule, the Public Employees Retirement Board shall review the retirement benefits provided by a public employer of police officers or firefighters that does not provide retirement benefits for those employees under the Public Employees Retirement System. The review must be conducted at the expense of the public employer. Based on the review, the board

shall determine whether the public employer complies with the requirements of subsection (2) of this section. If the board determines that the public employer does not comply with the requirements of subsection (2) of this section for any class of employees described in subsection (2) of this section, the public employer must provide that class of employees with retirement benefits adequate to meet the requirements of subsection (2) of this section. If the public employer fails to provide those benefits, any employee within the class may bring an action in circuit court to compel compliance with the requirements of this section.

237.635 Mandated increase in benefits payable under systems other than Public Employees Retirement System; limitation.

(1) Any public employer that provides retirement benefits to its police officers and firefighters other than by participation in the Public Employees Retirement System pursuant to the provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public employer, both active and retired, that are equal to the increases in retirement benefits that are provided for in this 1991 Act for active and retired police officers or firefighters who are members of the Public Employees Retirement System, or shall provide to those police officers and firefighters increases in retirement benefits that are the actuarial equivalent of the increases in retirement benefits that are provided for in this 1991 Act for police officers or firefighters who are members of the Public Employees Retirement System. No other retirement benefit or other benefit provided by those public employers shall be decreased by the employer by reason of the increases mandated by this section.

(2) The increased benefits provided for in this section apply only to police officers or firefighters who establish membership before July 14, 1995, in a retirement plan or system offered by a public employer in lieu of membership in the Public Employees Retirement System pursuant to the provisions of ORS 237.620.

237.637 Additional mandated increase in benefits payable under systems other than Public Employees Retirement System. Any public employer that provides retirement benefits to its police officers and firefighters other than by participation in the Public Employees Retirement System pursuant to the provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public employer, both active and retired, that are equal to the increases in retirement benefits that are provided for in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters who are members of the Public Employees Retirement System, or the public employer shall provide to those police officers and firefighters increases in retirement benefits that are the actuarial equivalent of the increases in retirement benefits that are provided for in chapter 569, Oregon Laws 1995, for police officers or firefighters who are members of the Public Employees Retirement System. Increases provided under this section shall be reduced by the amount of any benefit increase provided by ORS 237.635 in the same manner that increases in retirement benefits that are provided for in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters who are members of the Public Employees Retirement System are reduced to reflect amounts paid to those members under the provisions of chapter 796, Oregon Laws 1991. No other retirement benefit or other benefit provided by those public employers shall be decreased by the employer by reason of the increases mandated by this section.

ORS 241 — Civil Service for County Employees

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241.002 Creating or changing county civil service by election; definitions.

(1) If the majority of electors of any county voting at a regular general election pursuant to ORS 241.006 approve a proposal to establish, substitute or amend a system of civil service under which county employees shall be employed, the system or amendments to an existing system of civil service approved by the electors shall apply to such county.

(2) If ORS 241.016 to 241.990 become applicable in a county, “board of county commissioners” as used in ORS 241.016 to 241.990 means the county court of a county which does not have a board of county commissioners.

(3) If ORS 242.702 to 242.824 become applicable in a county, “governing body” as used in ORS 242.702 to 242.824 means the board of county commissioners or county court of a county, as the case may be.

241.004 ORS 241.002 to 241.009 not exclusive method for approval of system. ORS 241.002 to 241.009 shall not be construed to be an exclusive method by which counties may approve a system of civil service for county employees.

241.006 Submitting proposals relating to county civil service. At any general election, if a county does not have in operation a system of civil service for all county employees or if an existing system of civil service for all county employees is to be amended or substituted for by another system, there may be submitted to the electors of the county a proposal:

(1) To make ORS 241.016 to 241.990, providing a system of civil service under which county employees shall be employed, applicable to such county;

(2) To make ORS 242.702 to 242.824, providing a system of civil service under which certain political subdivisions shall employ firefighters, applicable to such county for all county employees;

(3) That provides a system of civil service which substantially accomplishes the general purposes of ORS 241.016 to 241.990 or 242.702 to 242.824, including methods of recruitment and promotion of county employees by competitive examinations and provisions for job tenure for county employees; or

(4) That amends an existing system of civil service previously approved by the electors under subsection (3) of this section.

241.009 Initiative or referendum; election procedure.

(1) A proposal under ORS 241.006 may be submitted to the electors of the county:

(a) By the initiative procedure; or

(b) By referral to the electors by the board of county commissioners or the county court.

(2) ORS 250.165 to 250.235 govern the manner of exercising the initiative unless ORS 250.155 makes ORS 250.165 to 250.235 inapplicable to the county.

241.016 Definitions for ORS 241.016 to 241.990. As used in ORS 241.016 to 241.990, unless the context requires otherwise:

(1) “Appointing power” includes every person or group of persons who, acting singly or as a board or commission, are vested by law with authority to select, appoint or employ any person to hold any position subject to civil service.

(2) “Appointment” includes all means of selecting or employing any person to hold any position subject to civil service.

(3) “Commission” means a civil service commission created under ORS 241.016 to 241.990.

(4) “Commissioner” means a member of the civil service commission created under ORS 241.016 to 241.990.

(5) “Position” includes any office, place or employment.

241.020 Counties subject to ORS 241.016 to 241.990. Except as provided in ORS 241.002 the provisions of ORS 241.016 to 241.990 apply to all counties of this state having a population of 500,000 persons or more.

241.025 Positions subject to civil service; exceptions. All appointees to positions in the public service of the county are subject to civil service, except the following:

- (1) Any officer chosen by popular election, or appointed to fill a vacancy caused by the death, resignation or removal of any officer chosen by popular election.
- (2) Any official reporter, bailiff or crier, subject to appointment by any court or judge or justice thereof.
- (3) Any person employed to perform manual labor, skilled or unskilled, in the construction, maintenance and repair of county property; provided, that electrical workers, members of road and bridge crews and laborers permanently employed shall be subject to civil service unless otherwise provided in ORS 241.016 to 241.990.
- (4) Any special deputy sheriff or deputy constable appointed to act without compensation from the county.
- (5) Any member of the county civil service commission.
- (6) Any deputy district attorney.
- (7) Any doctor, nurse, intern or superintendent or other executive officer, employed by, in or at the county hospital, county poor farm, or any home maintained by the county for the detention or care of juveniles.
- (8) The roadmaster of the county.
- (9) Any temporary, part-time or seasonal employee.
- (10) Any person holding a position subject to the jurisdiction of the commission created by ORS 242.706.
- (11) Any chief examiner appointed under ORS 242.716.
- (12) Any assistants to a board of county commissioners.
- (13) Any undersheriff, deputy undersheriff or administrative aide to a sheriff.

241.055 Construction of ORS 241.016 to 241.990. ORS 241.016 to 241.990 shall be liberally construed so that its intent and purposes may be given effect.

241.065 County civil service commission; members; compensation. There is created in each county subject to ORS 241.016 to 241.990 a civil service commission composed of three members appointed by the board of county commissioners, who shall serve without compensation and shall devote due time and attention to their duties.

241.070 Qualifications of commissioners. No person shall be appointed a member of the commission who is not a citizen of the United States, a resident of the county for at least three years immediately preceding the appointment and an elector of the county. None of the commissioners shall hold any other public or official position.

241.075 Term of office and removal of commissioners.

- (1) The term of office of each commissioner is six years with the term of one commissioner expiring every two years.
- (2) Any commissioner may be removed from office by the board of county commissioners for incompetency, incompatibility or dereliction of duty, or other good cause.

241.080 Quorum. Two members of the commission shall constitute a quorum and, except in matters requiring the unanimous consent of the commission, as provided in ORS 241.016 to 241.990, the votes of any two commissioners concurring shall be sufficient for decision in all matters and transactions pursuant

to ORS 241.016 to 241.990.

241.085 Secretary of commission. The commission shall appoint a secretary, who shall keep records of its proceedings, preserve all reports made to it, superintend and keep a record of all examinations and investigations held or made under its direction, and perform such other duties as it may prescribe. The secretary shall hold office during the pleasure of the commission and shall receive such salary as the board of county commissioners may fix.

241.090 Offices and clerical help for commission. The board of county commissioners shall provide the commission with suitable and convenient rooms and accommodations at the county courthouse, and cause the same to be furnished, heated, lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission. The board shall also provide the commission with such clerical assistance as may be necessary.

241.095 Officers and employees to assist commission. All county officers and employees of the county shall aid in all proper ways in carrying out the provisions of ORS 241.016 to 241.990, and such regulations as may, from time to time, be prescribed by the commission thereunder, and to afford the commission, its members and employees all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments subject to civil service, and also to produce such books, papers, documents and accounts, and attend and testify, whenever required so to do by the commission, or any commissioner.

241.100 Legal representation of commission. The district attorney of the county shall be the legal adviser of the commission and shall prosecute all violations of ORS 241.016 to 241.990. However, the board of county commissioners may employ special counsel for that purpose and may also employ special counsel to represent county elective officials in hearings before the commission.

241.105 Preservation and destruction of records and examinations; public records.

(1) The commission shall keep on file all examination papers and their markings and all other papers, documents and communications received by it. All such reports and files of the commission shall be public records and accessible at convenient times in like manner as other public records.

(2) The commission may destroy any reports and files of the commission which are:

(a) Not less than four years old.

(b) Less than four years old, provided they have been recorded by means of photography, microphotography, photocopying or filming and the commission determines that they have no further evidential value.

241.110 Rules of commission; notice.

(1) The commission shall make suitable regulations, not inconsistent with ORS 241.016 to 241.990, to carry out the provisions of ORS 241.016 to 241.990. The regulations shall provide in detail the manner in which examinations shall be held, and appointments, promotions, transfers, reinstatements, suspensions and discharges shall be made. The regulations may be changed, from time to time, and the same, together with all changes, shall forthwith be printed for distribution.

(2) The commission shall, not less than 10 days prior to the time when the regulations shall take effect, give notice, in a newspaper printed and published in the county and having a general circulation therein, of the place where printed copies of the regulations and changes therein may be obtained.

241.115 Notice by publication. All publications required to be made pursuant to ORS 241.110 and elsewhere in ORS 241.016 to 241.990 shall be made in a newspaper which is printed and published not less than once a day for at least six days of each week.

241.120 Investigation and inspection by commission. The commission shall make investigations concerning, and report upon all matters touching, the enforcement and effect of the provisions of ORS

241.016 to 241.990, and the regulations prescribed thereunder; inspect all county institutions, departments, offices and positions affected by ORS 241.016 to 241.990, and ascertain whether ORS 241.016 to 241.990 and the regulations are being obeyed. An investigation may be made by the commission, or by any commissioner designated by the commission for that purpose.

241.125 Compelling attendance of witnesses and production of documents.

(1) In the course of an investigation, the commission, or designated commissioner, may administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation. Attendance of witnesses, either with or without books, papers, documents or accounts may not be compelled, unless such witnesses are personally served with subpoena within the county wherein the commission has jurisdiction.

(2) The circuit court in the county may compel the attendance of witnesses, the giving of testimony, and the production of books, papers, accounts and documents, as required by any subpoena duly issued by the commission, or designated commissioner, under this section, and may punish the disobedience of such witnesses as a contempt.

241.130 Depositions of witnesses. The commission, or designated commissioner, may, in any investigation or hearing, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit court. To that end, the commission may compel the attendance of witnesses and the production of books, papers, documents and accounts.

241.135 Conduct of hearings and investigations; rules. All hearings and investigations before the commission, or designated commissioner, shall be governed by ORS 241.016 to 241.990 and by rules of practice and procedure to be adopted by the commission. In the conduct thereof neither the commission, nor designated commissioner, shall be bound by the technical rules of evidence.

241.140 Conclusiveness of orders, decisions, rules or regulations; necessity for unanimity. No informality in any proceeding or hearing, or in the manner of taking testimony before the commission, or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission. However, no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by the other two members of the commission.

241.145 Witness fees. Any person served with a subpoena requiring attendance before the commission, or any commissioner, shall be entitled to the fees and mileage as are allowed by law to witnesses in ORS 44.415 (2), except that no person shall be entitled to any fees or mileage for such attendance who is employed in the public service of the county in which the person is called as such witness. The fees and mileage allowed by this section need not be prepaid, but the county clerk shall draw a warrant for the payment thereof when it is certified by the commission.

241.150 Reports of appointments and separations. Each appointing power shall:

(1) Report to the commission forthwith upon each appointment the name of the appointee, the title or character of the position to which the appointment is made, the date of the commencement of service, and the salary or compensation therefor.

(2) Report from time to time, and upon the date of official action in, or knowledge of, each case, any separation of any person from any position, or other changes.

(3) Furnish such other information as the commission may require in order to keep the roster mentioned in ORS 241.155.

241.155 Official roster. The commission shall keep in its office an official roster of all persons holding positions under the provisions of ORS 241.016 to 241.990, and shall enter therein all appointments, promotions, demotions, transfers, reinstatements, resignations, suspensions, leaves of absence, removals and

discharges, setting forth in each instance the date of commencement or termination of service, or other change, the nature of the duties performed, and the salary or compensation therefor, together with sufficient information to show why and how such appointments, or other changes, were made. The roster shall be kept so as to disclose readily to any one desiring to inspect the same all such matters in connection with each position in each department of the county government, subject to civil service, and in connection with each person employed therein.

241.205 Basis of appointment and promotion generally. Except as otherwise expressly provided in ORS 241.016 to 241.990, the appointment and promotion of all persons to or in all positions subject to the provisions of ORS 241.016 to 241.990 shall be made solely upon merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation.

241.210 Board of county commissioners to control creation of positions and fixing of compensation. All positions subject to civil service in the county shall be created by the board of county commissioners and the board is authorized to fix the compensation of all employees employed therein. In the creation of each position subject to civil service, and in determining the amount of compensation thereof, the board shall give due consideration to the recommendation of the civil service commission and the appointing power of the department under which the position is created.

241.215 Classification and compensation; rules.

(1) The commission shall classify, with reference to the examinations provided for in ORS 241.016 to 241.990, all positions in the public service of the county to which ORS 241.016 to 241.990 apply. The classifications shall be based upon the respective functions of the positions and the compensation attached thereto, and shall be arranged so as to permit the grading of positions of like character in groups and subdivisions, to the end that like compensation shall be paid for like duties.

(2) The commission shall establish maximum and minimum salary limits for each grade in its classification, and shall provide by rule for advancement or promotion from grade to grade on the basis of efficiency and length of service.

(3) The classifications and grades may, from time to time, be amended, added to, consolidated or abolished by the commission, but no person holding any position under any established classification or grade shall be affected by any such change so as to deprive the person of any of the benefits attached to the classification or grade applicable to the position then held by the person.

(4) The positions so classified and graded shall constitute the classified civil service of the county.

241.220 Examinations; notice.

(1) The commission shall, from time to time, hold public competitive examinations to ascertain the fitness of applicants for all positions in the classified service.

(2) Notice of the time, place and general scope of every examination shall be given by the commission by publication in a newspaper of general circulation and printed and published in the county, once each week for two consecutive weeks. Notices shall also be posted in three public places in the county, one of which shall be the office of the commission, for not less than two weeks prior to the examination.

241.225 Qualification for examination. Examinations shall be confined to citizens of the United States who can read and write the English language and who also possess such qualifications as to fitness, habits and moral character as are prescribed by rules of the commission.

241.230 Character of examinations.

(1) All examinations shall be practical in character and shall relate only to those matters which fairly test the relative fitness of persons examined to discharge the duties of the positions for which they are applicants. Examinations shall include, when appropriate, tests of health and physical qualification,

and of manual, clerical or professional skill.

(2) No question in any examination shall relate to political or religious preference, affiliation, opinion or services.

241.235 Civil service examiners. The commission shall control all examinations and shall designate the persons who shall act as examiners at any examination. When a person in the official service of the county is designated as examiner, the person shall act as such without extra compensation. Any commissioner may act as examiner.

241.240 Credits to experienced applicants. The regulations of the commission shall provide for a credit on original entrance examinations, in a percentage to be determined by the commission, for experience in work similar to that for which examinations are held.

241.245 Examinations for promotions.

(1) Examinations for promotions shall be among the members of the lower classifications or grades established for each department who desire to offer themselves for such examination. The regulations adopted for examination of applicants for promotion shall, as near as may be, follow the regulations governing the examination of applicants for original appointment.

(2) The commission shall by its regulations prescribe the weight to be given to the recommendation of the appointing power touching the qualifications of the candidate for promotion, and where a record of fidelity and efficiency is regularly kept in good faith in any department the commission shall give it at least equal value with the record of examination for promotion.

241.250 Register of eligibles; relative rank; striking of names; rules. The commission shall prepare and keep a register for each grade and classification in the classified civil service of all persons whose general average standing upon examination for such grade or classification is not less than the minimum fixed by the rules of the commission, and who are otherwise eligible. Such persons shall take rank upon such register, as candidates, in the order of their relative excellence, as determined by examination and investigation. Candidates of equal standing shall take rank upon the register according to the order in which their applications are filed. The commission may, by rule, provide for striking candidates from the list after they have remained thereon for a specified time, and may limit the number of times the same candidate shall be certified to the appointing power.

241.255 Vacancies filled by promotion if practicable. The commission shall by regulations provide that wherever practicable vacancies shall be filled by promotion.

241.260 Classified civil service vacancies; certification of candidates for vacancies. Whenever there is a vacancy in any position in the classified civil service, the appointing power shall immediately notify the commission thereof. The commission shall thereupon certify to the appointing power the names and addresses of the three eligible candidates standing highest upon the register for the classification or grade to which such position belongs. If there are fewer than three, the commission shall certify all candidates upon the register. When vacancies exist in two or more positions of the same classification in the same department at the same time, the commission shall certify at least two candidates for each position, but those certified must be the eligible candidates standing highest upon the register. The appointing power may require the candidates so certified to come before the appointing power, and the appointing power may inspect their examination papers. The regulations for certification of applicants for promotion shall, as near as may be, follow the regulations governing the certification of applicants for original appointment.

241.265 Probationary appointments; discharge during probation; effect of failure of promoted candidate to qualify.

(1) The appointing power shall appoint to each vacant position one of the candidates certified. The person so appointed shall be on probation for a period to be fixed by the regulations of the commission, not to exceed one year if the position is in the police department of the office of the sheriff, other-

wise not to exceed six months. During probation the appointing power may discharge the probationer, and in like manner appoint another of such candidates, and so continue until all candidates have been appointed. The reasons, in each instance, for such discharge, shall be filed in writing with the commission. If the reasons are deemed insufficient by the commission, the discharged candidate shall, notwithstanding such discharge, retain the rank upon the eligible list.

(2) When any person who has taken a promotional examination, and who has been appointed to a position in a higher classification or grade on probation, fails to qualify for the position in the higher classification or grade within the probationary period, the person shall not lose seniority in the lower classification or grade from which such promotion was made but shall return to employment and be reinstated in the position held by the person in such lower classification or grade.

241.270 Waiver of appointment. Any person on the eligible list may waive any appointment and in such event shall retain rank on the eligible list.

241.275 Permanent appointments. The appointing power must make permanent appointments from the list of candidates certified, unless, for reasons assigned in writing by the appointing power, the commission consents to and certifies a new list of candidates. If any probationer is not discharged during the period of probation, the appointment of the probationer shall be deemed permanent.

241.280 Temporary appointments. When there is no eligible list from which a position may be filled, the appointing power may, with the consent of the commission, fill such position by temporary appointment. A temporary appointment shall not continue for a longer period than three months, nor shall successive temporary appointments be made to the same position under this section without the previous consent of the commission. In no case shall any person hold a position under a temporary appointment for a period longer than six months without the unanimous consent of the commission. All temporary appointments caused by leaves of absence shall be made from the eligible list of the classified service.

241.285 Emergency appointments; rules. The commission shall establish rules and regulations under which emergency appointments may be made when those on the eligible list are not immediately available, and fix the time for which such emergency appointments shall be valid; provided, nothing contained in ORS 241.016 to 241.990 shall be construed to change, alter or impair the power of any officer, as provided by law, to command the assistance of the inhabitants of the county of the officer in serving or executing, or overcoming resistance to the service or execution of, any process, order or paper delivered to the officer for execution or service.

241.290 Efficiency records.

(1) Records of individual efficiency of holders of positions under civil service shall be established and kept in all departments of the county government. The records shall be made by the appointing power, unless otherwise directed by the commission, and in accordance with such regulations as the commission may prescribe. Copies of the records shall be filed with the commission from time to time, as it may require.

(2) The commission shall investigate all efficiency records and may make its own records, and shall rate upon such records the item of ascertained merit in examinations for promotion. The commission shall establish and enforce regulations under which records of unsatisfactory service may lead to reduction in grade and compensation and provide for the manner in which persons falling below the standards of efficiency fixed by its regulations may be removed, discharged or reduced in grade or compensation.

241.295 Appointments and promotions to be made only as provided in ORS 241.016 to 241.990. No appointment or promotion to any position in the classified civil service of the county shall be made except in the manner provided in ORS 241.016 to 241.990.

241.300 Appointment of undersheriff, deputy undersheriff and administrative aide; reinstatement.

(1) Notwithstanding any other provision of ORS 241.016 to 241.990, any person under a civil service system employed in the office of the sheriff or registered on the eligible list is eligible for appointment as an undersheriff, deputy undersheriff or administrative aide to the sheriff. If the deputy sheriffs in the county are under civil service, only a deputy sheriff serving in the law enforcement department of the office of the sheriff is eligible for appointment as a deputy undersheriff.

(2) Any person appointed undersheriff, deputy undersheriff or administrative aide to the sheriff, upon termination of such appointment, shall be reinstated in the person's previous rank on the eligible list or in the person's last held position at the salary rates prevailing for such positions on the date of resumption of duty, without loss of seniority or other employment rights and with service credit for the time served as undersheriff or deputy undersheriff.

241.505 Prohibited conduct generally. No person shall:

(1) Alone or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect of the right of examination or registration of the person according to the regulations prescribed by the commission pursuant to ORS 241.016 to 241.990.

(2) Falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to ORS 241.016 to 241.990, or aid in so doing, or make any false representation concerning the same, or concerning the person examined.

(3) Furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified.

(4) Impersonate any other person, or permit or aid in any manner any other person to impersonate the person, in connection with any examination or registrations, or application or request to be examined or registered.

241.525 Corrupt practices prohibited. No public officer and no person who is nominated or seeks nomination or appointment for public office shall use, or promise to use, directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person to secure, any office or appointment in the public service, or any nomination, confirmation or promotion, or increase of salary, on consideration that the vote, political influence or action of the last named person or any other shall be given or used in behalf of any candidate, officer or political party or association, or upon any other corrupt condition or consideration. No public officer or employee, or person having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer or employee, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the political vote or action of any citizen, or the removal, discharge or promotion of any public officer or public employee, or upon any corrupt consideration. As used in this section, the phrase "public officer" includes all public officials within the county, whether paid directly or indirectly from the public treasury of the United States, the state or any civil division thereof, including counties and cities, and whether by fees or otherwise; and the phrase "public employee" includes every person not being an officer who is paid from any such treasury.

241.530 Limitations on recommendations of applicants.

(1) No recommendation, other than those allowed by the rules of the commission, in favor of any person who applies for any position under civil service, or for examination or registration under ORS 241.016 to 241.990, except as to residence, character, and, in case of former employees, as to ability, when a recommendation as to character or ability is specifically required by the rules, shall be given to or considered by any person concerned in making any examination, registration, appointment or promotion under ORS 241.016 to 241.990.

(2) No recommendation under ORS 241.016 to 241.990 shall relate to the religious or politi-

cal opinions, affiliations or services of any person. No appointment, change in or removal from, any position under ORS 241.016 to 241.990 shall be affected or influenced in any way by such opinions, affiliations or services.

241.990 Penalties; jurisdiction.

(1) Except as otherwise provided in this section, willful violation of any of the provisions of ORS 241.016 to 241.990 is a misdemeanor and, upon conviction, is punishable by a fine of not less than \$25 nor more than \$1,000, or by imprisonment in the county jail for not longer than one year, or both.

(2) Willful false swearing in any hearing or investigation before the commission, or designated commissioner, is perjury and punishable as such.

(3) Violation of ORS 241.525 is punishable, upon conviction, by a fine of not less than \$50 nor more than \$1,000 or imprisonment of not less than 10 days nor more than two years, or both. In addition, if the person convicted is a public officer of the state or any civil division thereof, including counties and cities, the person shall be deprived of office.

(4) The circuit court shall have jurisdiction of all offenses defined by ORS 241.016 to 241.990.

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LIFE INSURANCE FOR POLICE AND FIREFIGHTERS

243.005 Definitions for ORS 243.005 to 243.045. As used in ORS 243.005 to 243.045:

(1) “Firefighter” means persons employed by a city, county or district whose duties involve fire fighting and includes a volunteer firefighter whose position normally requires less than 600 hours of service per year.

(2) “Police officer” includes police chiefs and police officers of a city who are classified as police officers by the council or other governing body of the city; sheriffs and those deputy sheriffs whose duties, as classified by the county governing body are the regular duties of police officers; employees of districts, whose duties, as classified by the governing body of the district are the regular duties of police officers; employees of the Department of State Police who are classified as police officers by the Superintendent of State Police; employees of the Criminal Justice Division of the Department of Justice who are classified by the Attorney General as criminal investigators or criminal financial investigators; employees of the Oregon State Lottery Commission who are classified by the Director of the Oregon State Lottery as enforcement agents; and employees of Department of Corrections institutions as defined in ORS 421.005 whose duties, as assigned by the superintendent, include the custody of persons committed to the custody

of or transferred to the Department of Corrections institution; but “police officer” does not include volunteer or reserve police officers or persons considered by the respective governing bodies to be civil deputies or clerical personnel.

(3) “Public employer” means a city, a county or the state, or one of its agencies or political subdivisions that employs police officers or firefighters.

243.015 Life insurance for police and firefighters. The Oregon Department of Administrative Services shall enter into a contract with an insurance company licensed to do business in this state to purchase insurance as described in ORS 243.025 for all police officers and firefighters in the service of public employers.

243.025 Issuance of \$10,000 life insurance certificate. When the Oregon Department of Administrative Services has awarded the contract under ORS 243.015, every police officer and firefighter in the service of a public employer shall be issued, pursuant to the contract provided for in ORS 243.015, a certificate of insurance in the face amount of \$10,000, covering death caused by injury sustained during working hours as a police officer or firefighter or death resulting from such an injury within 365 days. The insurance certificate shall set forth the names of any beneficiaries whom the insured may designate.

243.035 Premiums and administrative costs to be budgeted and paid by public employers.

(1) The premiums and administrative costs incurred by the Oregon Department of Administrative Services for the insurance provided for in ORS 243.005 to 243.045 shall be paid by the affected public employers and shall not come from funds of the Public Employees Retirement System.

(2) Every public employer shall include in its budget amounts sufficient to pay the annual premiums accruing on the policies of insurance issued pursuant to ORS 243.005 to 243.045, and amounts sufficient to reimburse the Oregon Department of Administrative Services for its administrative expenses incurred under ORS 243.005 to 243.045.

243.045 Police and firefighters considered common group for certain purposes. For purposes of the Insurance Code, police officers and firefighters are considered to be associated in a common group formed for purposes other than the obtaining of insurance.

243.055 Exemption from requirements of ORS 243.005 to 243.045 for certain public employers.

(1) Notwithstanding ORS 243.005 to 243.045, if a public employer provides benefits equal to or better than the insurance required under ORS 243.025, as determined by the Director of the Department of Consumer and Business Services, the public employer is exempt from the requirements of ORS 243.005 to 243.045 for so long as such benefits continue to be equal or better than the insurance required, as determined by the Director of the Department of Consumer and Business Services.

(2) Determinations pursuant to subsection (1) of this section shall be made after reasonable notice and opportunity for hearing as provided in ORS chapter 183.

243.061 Public Employees’ Benefit Board; members; term; confirmation; expenses.

(1) There is created in the Oregon Department of Administrative Services the Public Employees’ Benefit Board consisting of eight voting members and two members of the Legislative Assembly as nonvoting advisory members. Two of the voting members are ex officio members and six are appointed by the Governor. The voting members shall be:

(a) Four members representing the state as an employer and management employees, who shall be as follows:

(A) The Director of the Oregon Department of Administrative Services or a designee of the director;

(B) The Administrator of the Office for Oregon Health Policy and Research

or a designee of the administrator; and

(C) Two management employees appointed by the Governor from areas of state government other than the Oregon Department of Administrative Services or the Office for Oregon Health Policy and Research; and

(b) Four members appointed by the Governor and representing nonmanagement representable employees, who shall be as follows:

(A) Two persons from the largest employee representative unit;

(B) One person from the second largest employee representative unit; and

(C) One person from representable employees not represented by employee representative units described in subparagraphs (A) and (B) of this paragraph.

(2) One member of the Senate shall be appointed by the President of the Senate and one member of the House of Representatives shall be appointed by the Speaker of the House to serve as non-voting advisory members.

(3) The term of office of each appointed voting member is four years, but an appointed voting member serves at the pleasure of the Governor. Before the expiration of the term of a voting member appointed by the Governor, the Governor shall appoint a successor to take office upon the date of that expiration. 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.

(4) The appointments by the Governor of voting members of the board are subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.

(5) Members of the board who are not members of the Legislative Assembly shall receive no compensation for their services, but shall be paid for their necessary and actual expenses while on official business in accordance with ORS 292.495. Members of the board who are members of the Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly.

243.066 Officers; quorum; meetings.

(1) The Public Employees' Benefit Board shall select one of its appointed voting members as chairperson and another appointed voting member as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of those offices as the board determines.

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

(3) The board shall meet at times and places specified by the call of the chairperson or of a majority of the voting members of the board.

BENEFIT PLANS

243.105 Definitions for ORS 243.105 to 243.285. As used in ORS 243.105 to 243.285, unless the context requires otherwise:

(1) "Benefit plan" includes, but is not limited to:

(a) Contracts for insurance or other benefits, including medical, dental, vision, life, disability and other health care recognized by state law, and related services and supplies;

(b) Comparable benefits for employees who rely on spiritual means of healing; and

(c) Self-insurance programs managed by the Public Employees' Benefit Board.

(2) "Board" means the Public Employees' Benefit Board.

(3) “Carrier” means an insurance company or health care service contractor holding a valid certificate of authority from the Director of the Department of Consumer and Business Services, or two or more companies or contractors acting together pursuant to a joint venture, partnership or other joint means of operation, or a board-approved guarantor of benefit plan coverage and compensation.

(4) (a) “Eligible employee” means an officer or employee of a state agency who elects to participate in one of the group benefit plans described in ORS 243.135. The term includes state officers and employees in the exempt, unclassified and classified service, and state officers and employees, whether or not retired, who:

(A) Are receiving a service retirement allowance, a disability retirement allowance or a pension under the Public Employees Retirement System or are receiving a service retirement allowance, a disability retirement allowance or a pension under any other retirement or disability benefit plan or system offered by the State of Oregon for its officers and employees;

(B) Are eligible to receive a service retirement allowance under the Public Employees Retirement System and have reached earliest retirement age under ORS chapter 238;

(C) Are eligible to receive a pension under ORS 238A.100 to 238A.245, and have reached earliest retirement age as described in ORS 238A.165; or

(D) Are eligible to receive a service retirement allowance or pension under another retirement benefit plan or system offered by the State of Oregon and have attained earliest retirement age under the plan or system.

(b) “Eligible employee” does not include individuals:

(A) Engaged as independent contractors;

(B) Whose periods of employment in emergency work are on an intermittent or irregular basis;

(C) Who are employed on less than half-time basis unless the individuals are employed in positions classified as job-sharing positions, unless the individuals are defined as eligible under rules of the board;

(D) Appointed under ORS 240.309;

(E) Provided sheltered employment or make-work by the state in an employment or industries program maintained for the benefit of such individuals; or

(F) Provided student health care services in conjunction with their enrollment as students at the state institutions of higher education.

(5) “Family member” means an eligible employee’s spouse and any unmarried child or stepchild within age limits and other conditions imposed by the board with regard to unmarried children or stepchildren.

(6) “Payroll disbursing officer” means the officer or official authorized to disburse moneys in payment of salaries and wages of employees of a state agency.

(7) “Premium” means the monthly or other periodic charge for a benefit plan.

(8) “State agency” means every state officer, board, commission, department or other activity of state government.

243.125 Powers and duties of board; rules; compensation and expenses.

(1) The Public Employees’ Benefit Board shall prescribe rules for the conduct of its business. The board shall study all matters connected with the providing of adequate benefit plan coverage for eligible state employees on the best basis possible with relation both to the welfare of the employees and to

the state. The board shall design benefits, devise specifications, analyze carrier responses to advertisements for bids and decide on the award of contracts. Contracts shall be signed by the chairperson on behalf of the board.

(2) In carrying out its duties under subsection (1) of this section, the goal of the board shall be to provide a high quality plan of health and other benefits for state employees at a cost affordable to both the employer and the employees.

(3) Subject to ORS chapter 183, the board may make rules not inconsistent with ORS 243.105 to 243.285 and 292.051 to determine the terms and conditions of eligible employee participation and coverage.

(4) The board shall prepare specifications, invite bids and do acts necessary to award contracts for health benefit plan and dental benefit plan coverage of eligible employees in accordance with the criteria set forth in ORS 243.135 (1).

(5) The board may retain consultants, brokers or other advisory personnel when necessary and, subject to the State Personnel Relations Law, shall employ such personnel as are required to perform the functions of the board.

243.135 Health benefit plans for public employees; terms and conditions.

(1) Notwithstanding any other benefit plan contracted for and offered by the Public Employees' Benefit Board, the board shall contract for a health benefit plan or plans best designed to meet the needs and provide for the welfare of eligible employees and the state. In considering whether to enter into a contract for a plan, the board shall place emphasis on:

- (a) Employee choice among high quality plans;
- (b) A competitive marketplace;
- (c) Plan performance and information;
- (d) Employer flexibility in plan design and contracting;
- (e) Quality customer service;
- (f) Creativity and innovation;
- (g) Plan benefits as part of total employee compensation; and
- (h) The improvement of employee health.

(2) The board may approve more than one carrier for each type of plan contracted for and offered but the number of carriers shall be held to a number consistent with adequate service to eligible employees and their family members.

(3) Where appropriate for a contracted and offered health benefit plan, the board shall provide options under which an eligible employee may arrange coverage for family members.

(4) Payroll deductions for such costs as are not payable by the state may be made upon receipt of a signed authorization from the employee indicating an election to participate in the plan or plans selected and the deduction of a certain sum from the employee's pay.

(5) In developing any health benefit plan, the board may provide an option of additional coverage for eligible employees and their family members at an additional cost or premium.

(6) Transfer of enrollment from one plan to another shall be open to all eligible employees and their family members under rules adopted by the board. Because of the special problems that may arise in individual instances under comprehensive group practice plan coverage involving acceptable physician-patient relations between a particular panel of physicians and particular eligible employees and their family members, the board shall provide a procedure under which any eligible employee may apply at any time to

substitute a health service benefit plan for participation in a comprehensive group practice benefit plan.

243.140 Health benefit and dental plans for persons operating foster homes.

(1) Persons whose homes are certified as a foster home by the Department of Human Services under ORS 418.630 and as defined in ORS 418.625 (3) may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the foster parent. For such purposes, foster parents shall be considered eligible employees.

(2) A person who maintains a developmental disability child foster home that is certified by the department under ORS 443.830 and 443.835 may participate in a health benefit plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the person. For such purposes, the person maintaining the home shall be considered an eligible employee.

(3) Persons who participate in the health benefit plan pursuant to subsections (1) and (2) of this section may also participate in a dental plan available to state employees pursuant to ORS 243.105 to 243.285 at the expense of the foster parent or the person maintaining the developmental disability child foster home.

243.145 Board authority with respect to health benefit plans; termination of participation of state agency.

(1) The Public Employees' Benefit Board shall have authority to employ whatever means are reasonably necessary to carry out the purposes of ORS 243.105 to 243.285 and 292.051. Such authority shall include but is not limited to authority to self-insure and to seek clarification, amendment, modification, suspension or termination of any agreement or contract that in the board's judgment requires such action.

(2) Upon providing specific notice in writing to the carrier, the affected employee organization or organizations, the Oregon Department of Administrative Services and affected, eligible employees, and after affording opportunity for a public hearing upon the issues that may be involved, the board may enter an order withdrawing approval of any benefit plan. Thirty days after entry of the order, the board shall terminate all withholding authorizations of eligible employees and terminate all board-approved participation in the plan.

(3) The board by order may terminate the participation of any state agency if within three months the state agency fails to perform any action required by ORS 243.105 to 243.285 and 292.051 or by board rule.

243.160 Eligibility of retired state officer or employee to participate in dental benefit plan; rules. A retired state officer or employee is not required to participate in one of the group benefit plans described in ORS 243.135 in order to obtain dental benefit plan coverage. The Public Employees' Benefit Board shall establish by rule standards of eligibility for retired officers or employees to participate in a dental benefit plan.

243.163 Eligibility of former member of Legislative Assembly to participate in group benefit plan. A member of the Legislative Assembly who is receiving a pension or annuity under ORS 238.092 (1)(a) shall be eligible to participate as a retired state officer in one of the group benefit plans described in ORS 243.135 after the member ceases to be a member of the Legislative Assembly if the member applies to the Public Employees' Benefit Board within 60 days after the member ceases to be a member of the Legislative Assembly.

243.165 Public Employees' Benefit Account; continuing appropriation to account.

(1) There hereby is created in the General Fund an account to be known as the Public Employees' Benefit Account, the balances of which are continuously appropriated to cover administrative expenses incurred in connection with the administration of ORS 243.105 to 243.285 and 292.051.

(2) There hereby is appropriated to the Public Employees' Benefit Account, subject to ORS

243.185, an amount not to exceed two percent of the monthly employer and employee contributions for any benefit available under ORS 243.105 to 243.285 and 292.051.

243.167 Public Employees' Revolving Fund; continuing appropriation to fund.

(1) There is created the Public Employees' Revolving Fund, separate and distinct from the General Fund. The balances of the Public Employees' Revolving Fund are continuously appropriated to cover expenses incurred in connection with the administration of ORS 243.105 to 243.285 and 292.051. Assets of the Public Employees' Revolving Fund may be retained for limited periods of time as established by the Public Employees' Benefit Board by rule. Among other purposes, the board may retain the funds to control expenditures, stabilize benefit premium rates and self-insure. The board may establish subaccounts within the Public Employees' Revolving Fund.

(2) There is appropriated to the Public Employees' Revolving Fund all unused employer contributions for employee benefits and all refunds, dividends, unused premiums and other payments attributable to any employee contribution or employer contribution made from any carrier or contractor that has provided employee benefits administered by the board, and all interest earned on such moneys.

243.170 Contributions for job-share employees limited. When more than one individual shares a single position that is classified as a job-sharing position, the state shall contribute to obtain coverage for the individuals a total amount not greater than the amount that would be contributed to obtain coverage for one individual in the same position. The individuals shall receive credit for the state contribution in such proportions as they and the employer agree upon, and each individual who desires coverage shall make further contribution in such amounts as may be appropriate.

243.185 Transfer of moneys from General Fund for payment of costs of health benefit plans. Subject to legislative or Emergency Board approval of budgetary authorization for operation of the Public Employees' Benefit Board and its administration of the health benefit plans and other duties under ORS 243.105 to 243.285 and 292.051, an amount not to exceed two percent of the employer and employee contributions shall be forwarded by each payroll disbursing officer to the board and deposited by it in the State Treasury to the credit of the Public Employees' Benefit Account to meet administrative and other costs authorized by ORS 243.105 to 243.285 and 292.051. The board shall take action to ensure that the balance in the account does not exceed five percent of the monthly total of employer and employee contributions for more than 120 days.

243.200 Participation of self-pay groups in benefit plans.

(1) (a) The Public Employees' Benefit Board may allow self-pay groups to participate in benefit plans available to eligible state employees, if the group meets a minimum participation level equal to 75 percent of the persons in the group.

(b) Notwithstanding paragraph (a) of this subsection, the board may allow nurses or nurse educators who are employed less than half-time by a state agency or university and who are not otherwise eligible for a state contribution for benefits to participate in a self-pay group without any minimum participation level of persons in the group.

(2) Nothing in subsection (1) of this section applies to:

(a) Any person or group of persons similarly situated exempted by state or federal law from any minimum participation requirement; or

(b) Any person or group of persons participating prior to January 1, 1992, in a benefit plan that was offered by the State Employees' Benefit Board.

(3) As used in subsection (1) of this section, "self-pay group" means a group of persons other than state employees for whom the state makes no contributions for benefit plans under ORS 243.105 to 243.285.

243.205 Reports. The payroll disbursing officer shall submit reports to the Public Employees' Benefit Board regarding health care coverage for eligible or participating employees as the board considers desirable.

243.215 Certain eligible employees permitted to receive state contributions for health benefit plans of their choice; rules. Any eligible employee unable to participate in one or more of the plans described in ORS 243.135 (1) solely because the employee is assigned to perform duties outside the state may be eligible to receive the monthly state contribution, less administrative expenses, as payment of all or part of the cost of a health benefit plan of choice, subject to the approval of the Public Employees' Benefit Board and such rules as the board may adopt.

243.221 Options that may be offered under flexible benefit plan.

(1) In addition to the powers and duties otherwise provided by law to provide employee benefits, the Public Employees' Benefit Board may provide, administer and maintain flexible benefit plans under which eligible employees of this state may choose among taxable and nontaxable benefits as provided in the federal Internal Revenue Code.

(2) In providing flexible benefit plans, the board may offer:

(a) Health or dental benefits as provided in ORS 243.125 and 243.135.

(b) Other insurance benefits as provided in ORS 243.275.

(c) Dependent care assistance as provided in ORS 243.550.

(d) Expense reimbursement as provided in ORS 243.560.

(e) Any other benefit that may be excluded from an employee's gross income under the federal Internal Revenue Code.

(f) Any part or all of the state contribution for employee benefits in cash to the employee.

(3) In developing flexible benefit plans under this section, the board shall design the plan on the best basis possible with relation to the welfare of employees and to the state.

243.223 Rules for flexible benefit plans; costs.

(1) In providing flexible benefit plans under ORS 243.221, the Public Employees' Benefit Board shall adopt rules as are considered necessary for the establishment and administration of the plans.

(2) The board may assess a charge to participating employees to pay the cost of administering the plans and may pay some or all of such cost from funds authorized to pay general administrative expenses incurred by the board.

(3) The board may contract with private organizations for administration of flexible benefit plans in accordance with rules adopted under subsection

(1) of this section.

243.252 Payment of cost for employees or retirees.

(1) The state may pay none of the cost of making health benefit plan coverage available to a retired state employee who is an eligible employee and to family members or may agree, by collective bargaining agreement or otherwise, to pay part or all of that cost.

(2) Nothing in subsection (1) of this section or other law, except ORS 243.886, prohibits a collective bargaining unit from agreeing with an employer that is a public body, as defined in ORS 174.109, to establish a retiree medical trust, voluntary employees' beneficiary association, health reimbursement arrangement or other agreement for health care expenses of employees or retirees if the provisions of the trust, association, arrangement or other agreement comply with the requirements of the Insurance Code.

243.275 Additional benefit plans authorized; assessment for expenses.

(1) In addition to contracting for health and dental benefit plans, the Public Employees' Benefit Board may contract with carriers to provide at the expense of participating eligible employees and with or without state participation for coverage, including but not limited to, insurance or other benefit based on life, supplemental medical, supplemental dental, optical, accidental death or disability insurance plans.

(2) The monthly contribution of each eligible employee for other benefit plan or plans coverage, as described in subsection (1) of this section, shall be the total cost per month of the benefit coverage afforded the employee under the plan or plans, for which the employee exercises an option, including the cost of enrollment of such eligible employees and administrative expenses therefor.

(3) For any benefit plan or plans described in subsection (1) of this section in which the state participates, the monthly contribution of each eligible employee for the benefit plan, for which the employee exercises an option and there is state participation, shall be reduced by an amount equal to the portion thereof contributed by the state, including the cost of enrollment of the eligible employee and the administrative expenses therefor.

(4) The board may withdraw approval of any such additional benefit plan coverage in the same manner as it withdraws approval of health benefit plans as described and authorized by ORS 243.145.

(5) If any state agency contracts for any of the benefits described in subsection (1) of this section on behalf of any state employees, the administrative expenses thereof shall be paid by assessment of the participating employees. Such contracts are subject to approval of the board before they become operative. The board may withdraw approval for any such benefit in the same manner as it withdraws approval under ORS 243.145.

243.285 Salary deductions; payment of moneys deducted.

(1) Upon receipt of the request in writing of an eligible employee so to do, the payroll disbursing officer authorized to disburse funds in payment of the salary or wages of the eligible employee may deduct from the salary or wages of the employee an amount of money indicated in the request for payment of the applicable amount set forth in benefit plans selected by the employee or selected on the employee's behalf for:

(a) Group health and related services and supplies, including such insurance for family members of the eligible employee.

(b) Group life insurance, including life insurance for family members of the eligible employee.

(c) Group dental and related services and supplies, or any other remedial care recognized by state law and related services and supplies, recognized under state law, including such insurance for family members of the eligible employee.

(d) Group indemnity insurance for accidental death and dismemberment and for loss of income due to accident, sickness or other disability, including such insurance for family members of the eligible employee.

(e) Other benefits, including self-insurance programs, that are approved and provided by the Public Employees' Benefit Board.

(2) Moneys deducted under subsection (1) of this section shall be paid over promptly:

(a) To the carriers or persons responsible for payment of premiums to carriers, in accordance with the terms of the contracts made by the eligible employees or on their behalf; or

(b) With respect to self-insurance benefits, in accordance with rules, procedures and directions of the Public Employees' Benefit Board.

243.291 Plan eligibility; costs to be paid by participants; fees.

(1) The Public Employees' Benefit Board shall make available one or more fully insured long term care insurance plans. The plans shall be made available to eligible employees, retired employees and family members. Notwithstanding ORS 243.105, for purposes of this subsection, "family members" includes family members as defined by the board and also includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree.

(2) Employees of local governments and employees of political subdivisions may participate in the plans under terms and conditions established by the board, if it does not jeopardize the financial viability of the board's long term care insurance plans. However, unless the local government or political subdivision provides otherwise, the employee's participation is a personal action of the employee and does not obligate the local government or political subdivision to pay for the provision of benefits under this subsection.

(3) Participation of eligible employees or retired employees in any long term care insurance plan made available by the board is voluntary and is subject to reasonable underwriting guidelines and eligibility rules established by the board.

(4) The employee or retired employee is solely responsible for the payment of the long term care premium rates developed by the board. The board is authorized to charge a reasonable administrative fee, in addition to the premium charged by the long term care insurer, to cover the cost of administration and consumer education materials.

243.296 Board to develop method to make plan available; education program.

(1) The Public Employees' Benefit Board shall develop effective and cost-effective ways to make the long term care insurance plans described under ORS 243.291 available.

(2) The board, in consultation with the Public Employees Retirement System, shall develop long term care insurance plan design, eligibility rules, underwriting principles and educational materials in order to:

(a) Allow eligible employees to continue to participate in the plans after retirement;
and

(b) Allow former eligible employees to enroll in the plans after retirement.

(3) The board's education program for the eligible employees and retired employees shall provide information on the potential need for long term care, methods of financing long term care and the availability of long term care insurance plans offered by the board.

243.302 Grouping retired and nonretired employees for health insurance coverage. The Public Employees' Benefit Board may group retired state employees and state employees who are not retired for the purpose of entering into contracts for health insurance coverage.

243.303 Local government authority to make health care insurance coverage available to retired officers and employees, spouses and children.

(1) As used in this section:

(a) "Health care" means medical, surgical, hospital or any other remedial care recognized by state law and related services and supplies and includes comparable benefits for persons who rely on spiritual means of healing.

(b) "Local government" means any city, county, school district or other special district in this state.

(c) "Retired employee" means a former officer or employee of a local government who is retired for service or disability, and who received or is receiving retirement benefits, under the Public

Employees Retirement System or any other retirement system or plan applicable to officers and employees of the local government.

(2) The governing body of any local government that contracts for or otherwise makes available health care insurance coverage for officers and employees of the local government shall, insofar as and to the extent possible, make that coverage available for any retired employee of the local government who elects within 60 days after the effective date of retirement to participate in that coverage and, at the option of the retired employee, for the spouse of the retired employee and any unmarried children under 18 years of age. The health care insurance coverage shall be made available for a retired employee until the retired employee becomes eligible for federal Medicare coverage, for the spouse of a retired employee until the spouse becomes eligible for federal Medicare coverage and for a child until the child arrives at majority, and may, but need not, be made available thereafter. The governing body may prescribe reasonable terms and conditions of eligibility and coverage, not inconsistent with this section, for making the health care insurance coverage available. The local government may pay none of the cost of making that coverage available or may agree, by collective bargaining agreement or otherwise, to pay part or all of that cost.

(3) A local government and a health care insurer may not create a group solely for the purpose of rating or of establishing a premium for health care insurance coverage of retired employees and their dependents that is separate from the group for health care insurance coverage of officers and employees of the local government and their dependents. Nothing in this subsection prevents a local government from allocating rates or premiums differently among retired employees and their dependents and officers and employees of the local government and their dependents once the rating or premium is established.

243.305 Policy of affirmative action and fair and equal employment opportunities and advancement.

(1) It is declared to be the public policy of Oregon that all branches of state government shall be leaders among employing entities within the state in providing to its citizens and employees, through a program of affirmative action, fair and equal opportunities for employment and advancement in programs and services and in the awarding of contracts.

(2) “Affirmative action” means a method of eliminating the effects of past and present discrimination, intended or unintended, on the basis of race, religion, national origin, age, sex, marital status or physical or mental disabilities.

243.315 Director of Affirmative Action; duties; appointment; confirmation; legislative and judicial branches to monitor own programs.

(1) There is hereby created in the office of the Governor the position of Director of Affirmative Action. The primary duty of the occupant of this position shall be to direct and monitor affirmative action programs in all state agencies to implement the public policy stated in ORS 243.305. The director shall be appointed by the Governor, subject to confirmation by the Senate pursuant to section 4, Article III of the Oregon Constitution.

(2) The legislative and judicial branches shall each select a person to monitor the effectiveness of the branches’ affirmative action programs.

243.325 “Public employee” defined. For the purposes of this section and ORS 243.330 and 243.335, “public employee” means officers or employees, classified, unclassified, exempt and nonexempt, of:

- (1) State agencies.
- (2) Community colleges.
- (3) School districts and education service districts.
- (4) County governments.

(5) City governments.

(6) Districts as defined in ORS 255.012 and any other special district.

243.330 Leaves of absence for athletic competition; requirements; maximum period; reinstatement.

(1) To encourage amateur athletic competition at the world level, state agencies and political subdivisions described in ORS 243.325 (2) to (6) may grant leaves of absence on request to any public employee who participates in world, Pan American or Olympic events as a group leader, coach, official or athlete of a United States amateur team for the purpose of preparing for and engaging in the competition and preliminary competitions.

(2) The leave shall be with regular pay and benefits for periods of official training camps and competitions. Paid leave shall not exceed 90 days per calendar year.

(3) Upon expiration of the leave, the public employee shall have the right to be reinstated to the position held before the leave was granted and at the salary rates prevailing for such positions on the date of resumption of duty without loss of seniority or other employment rights. Failure of the employee to report within 30 days after termination of official competition shall be cause for dismissal.

(4) In order to be eligible for the benefits authorized by ORS 243.325 to 243.335, the public employee shall be a resident of this state for a period of not less than five years and shall have been a public employee of the particular employer for a period of not less than one year prior to being granted the leave.

243.335 Reimbursement to public employer. Public employees eligible for the benefits authorized by ORS 243.325 to 243.335 are obligated to reimburse the employer in full through monetary payment, with no interest charge, or through hours worked equivalent to the number of hours spent on athletic leave, or a combination of both. Full reimbursement shall be accomplished at a time not later than 10 years following the last day the employee received benefits under ORS 243.325 to 243.335.

243.345 Smoking in places of state employment; policy statement. The Legislative Assembly finds that because the smoking of tobacco creates a health hazard, it is necessary to protect the public health by restricting smoking in places of employment operated by the State of Oregon.

243.350 Personnel Division rules restricting smoking in places of state employment.

(1) In accordance with the provisions of ORS chapter 183, the Personnel Division shall adopt rules restricting smoking in places of employment operated by departments or agencies of the State of Oregon. The rules of the division shall:

(a) Set standards for the designation of areas in a place of employment where smoking is permitted, including standards for ventilation and physical barriers.

(b) Require departments or agencies to designate areas in the place of employment where smoking is permitted pursuant to the standards of the division.

(c) Require departments or agencies supplying employees with lounges to provide smoke-free lounge areas for nonsmoking employees.

(d) Prohibit smoking in a place of employment in any area not designated as an area where smoking is permitted.

(2) The rules adopted by the division pursuant to subsection (1) of this section shall not apply to enclosed offices occupied exclusively by smokers, even though the offices may be visited by nonsmokers.

(3) Nothing in this section is intended to prevent departments or agencies from prohibiting smoking in the entire area of the place of employment.

243.401 Definitions for ORS 243.401 to 243.507. As used in ORS 243.401 to 243.507:

- (1) "Board" means the Public Employees Retirement Board described in ORS 238.630.
- (2) "Council" means the Oregon Investment Council created by ORS 293.706.
- (3) "Deferred compensation contract" means a written agreement entered into by the state and an eligible state employee under the provisions of ORS 243.440.
- (4) "Deferred compensation investment program" means the program established by the Oregon Investment Council under ORS 243.421, for investment of assets of the Deferred Compensation Fund.
- (5) "Deferred compensation plan" means a plan established by the state or a local government for the deferral of compensation payable to employees of the state or local government and for the deferral of income taxation on that compensation.
- (6) "Eligible state employee" means an officer or employee of a state board, commission, department or other instrumentality of state government, including, but not limited to, all officers and employees of the executive, judicial and legislative branches of state government, but excluding:
 - (a) Persons engaged as independent contractors, except as otherwise specifically allowed by statute;
 - (b) Persons who are employed in emergency work and whose periods of employment are on an intermittent or irregular basis; and
 - (c) Persons who are provided sheltered employment or make-work by the state in an employment or industries program maintained for the benefit of such individuals.
- (7) "Fund" means the Deferred Compensation Fund established under ORS 243.411.
- (8) "Local government" means a city, county, municipal or public corporation, any political subdivision of the state or any instrumentality thereof, or an agency created by two or more such political subdivisions to provide themselves governmental services.
- (9) "Local government deferred compensation plan" means a deferred compensation plan that is established and administered by a local government.
- (10) "Local plan participant" means a person participating in a local government deferred compensation plan.
- (11) "Participating local government" means a local government that invests all or part of the assets of the deferred compensation plan established by the local government through the deferred compensation investment program.
- (12) "State deferred compensation plan" means the deferred compensation plan described in ORS 243.435 for eligible state employees.
- (13) "State plan participant" means a person participating in the state deferred compensation plan, either through current or past deferrals of compensation.
- (14) "System" means the Public Employees Retirement System established in ORS 238.600.

243.411 Deferred Compensation Fund.

- (1) The Deferred Compensation Fund is created, separate and distinct from the General Fund, for the purpose of holding and investing assets of the state deferred compensation plan and the assets of the deferred compensation plans of participating local governments. Interest and any other earnings of the Deferred Compensation Fund shall be credited to the fund. Moneys in the fund may be used only for the purposes of implementing and administering ORS 243.401 to 243.507.
- (2) Subject to rules adopted by the Public Employees Retirement Board under ORS 243.470, the assets of the Deferred Compensation Fund may be commingled with the assets of the Public Employees

Retirement Fund for investment purposes in a group trust or by other means.

(3) The limitations imposed on the use of the Deferred Compensation Fund by subsection (1) of this section do not affect any law of this state that authorizes the manner in which moneys in the fund may be invested.

243.416 State Treasurer as fund custodian; administration. The Deferred Compensation Fund shall be held by the State Treasurer, who shall be custodian of the fund. Another person may be appointed as custodian of the fund if the State Treasurer and the Public Employees Retirement Board agree to the appointment. On request from the Director of the Public Employees Retirement System or the director's designee, the Oregon Department of Administrative Services shall draw warrants and issue payments on the Deferred Compensation Fund for the payment of benefits, the payment of expenses incurred by the system in the administration of ORS 243.401 to ORS 243.507, and the payment of refunds or other amounts that by reason of excessive contributions or other error are owed to state plan participants or local plan participants or the beneficiaries of those participants.

243.421 Investment program for fund; securities law not applicable.

(1) The Oregon Investment Council shall establish a program for investment of moneys in the Deferred Compensation Fund. The program shall include policies and procedures for the investment of moneys in the fund. The program and all investments of moneys under the program are subject to the provisions of ORS 293.701 to 293.820.

(2) The council shall provide to the Public Employees Retirement Board a description of the investment options set forth in the council's policies and procedures for the investment of moneys in the fund, the applicable benchmark for each option and a description of the characteristics of each benchmark.

(3) The provisions of ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59 that require registration of securities do not apply to any share, participation or other interest in the state deferred compensation plan or in the Deferred Compensation Fund. The provisions of ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59 requiring licensing of certain persons as broker-dealers or as investment advisors do not apply to any of the following persons or entities for the purposes of implementing and administering the deferred compensation investment program established under this section:

(a) The council.

(b) The Public Employees Retirement Board.

(c) The Public Employees Retirement System.

(d) The State Treasurer.

(e) Any officer or employee of the persons or entities described in paragraphs (a) to (d) of this subsection.

243.426 Accounts; use for administrative expenses. On request from the Public Employees Retirement Board, the State Treasurer shall establish all accounts in the Deferred Compensation Fund that are necessary to administer the provisions of ORS 243.401 to 243.507. The accounts shall be established and maintained with the charges assessed under ORS 243.472 against the account balances of the state plan participants and the funds invested by participating local governments. The moneys held in the accounts established by the board may be used only for payment of the administrative expenses incurred by the system, the State Treasurer and the Oregon Investment Council in administering the provisions of ORS 243.401 to 243.507.

243.428 Forfeited payments; use of moneys.

(1) If a warrant, check or order is issued for the payment of a deferred compensation benefit under the state deferred compensation plan, or for payment of a refund under the state deferred compensa-

tion plan, and the warrant, check or order is canceled, declared void or otherwise made unpayable, the payment shall be forfeited and the amount of the payment shall be returned or credited to the Deferred Compensation Fund. The amount forfeited may be used for the payment of administrative expenses of the state deferred compensation plan. Any amounts forfeited under this section shall be restored to the fund and paid to the payee, without interest, if the payee is located and files a claim for the benefit. The amount so paid shall be restored from other forfeited amounts or paid as an administrative expense of the state deferred compensation plan. The Public Employees Retirement Board may reissue the warrant, check or order for payment without bond if the payee is located after the warrant, check or order is canceled, declared void or otherwise made unpayable. Benefit payments forfeited under this subsection are not subject to ORS 98.302 to 98.436.

(2) The amount of any warrant, check or order for the payment of employee benefit withdrawals or refunds under a local government deferred compensation plan that is canceled, declared void or otherwise made unpayable shall be credited to the account of the applicable local government deferred compensation plan held in the Deferred Compensation Fund. The state shall not be liable under this subsection to a payee, or to a payee's beneficiaries, in the event a warrant, check or order for payment is not reissued to the payee or the payee's beneficiaries.

243.435 Plan contents; assets held in trust; use of moneys; recovery of overpayments; assignment of benefits prohibited.

(1) The Public Employees Retirement Board shall administer the state deferred compensation plan described in ORS 243.401 to 243.507 on behalf of the state for the benefit of eligible state employees.

(2) All assets of the state deferred compensation plan are held in trust for the exclusive benefit of the state plan participants and their beneficiaries. Except as otherwise provided by law, the Public Employees Retirement Board is declared to be the trustee of the assets of the state deferred compensation plan.

(3) The State of Oregon has no proprietary interest in the assets of the state deferred compensation plan or in payments of deferred compensation made to the plan by state plan participants. The state disclaims any right to reclaim payments made to the plan and waives any right of reclamation the state may have to the plan assets. This subsection does not limit the ability of the board to alter or refund an erroneously made employer payment.

(4) All moneys paid into the plan shall be deposited into the Deferred Compensation Fund.

(5) The assets of the state deferred compensation plan that are held in the Deferred Compensation Fund may be used only for the payment of benefits under the plan and for payment of expenses or refund liabilities incurred by the system in administration of the state deferred compensation plan.

(6) If the board determines that a state plan participant or any other person has received any amount in excess of the amounts that the participant or other person is entitled to receive under ORS 243.401 to 243.507, the board may recover the overpayment or other improperly paid amount in the same manner as provided for the recovery of overpayments from the Public Employees Retirement Fund under ORS 238.715.

(7) A state plan participant may not assign, anticipate, alienate, sell, transfer, pledge or in any way encumber any of the rights a participant may have under the state deferred compensation plan, and the state shall reject and refuse to honor any such purported action with respect to those rights.

243.440 Salary reduction for deferred compensation plan; amount; payment.

(1) The state and an eligible state employee may enter into a written deferred compensation contract that provides that a specified portion of the compensation payable to the employee for services rendered by the employee will not be paid or otherwise made available at the time the services are rendered

but instead will be paid or otherwise made available at some future date. The deferred compensation contract must specify the amount by which the employee's compensation will be reduced each month for the purpose of funding the deferred compensation benefit for the employee. The amount of the reduction may not be less than \$25 per month and may not exceed the maximum amount allowable under rules adopted by the Public Employees Retirement Board under ORS 243.470.

(2) The state officer or official authorized to disburse moneys in payment of salaries and wages of employees is authorized, upon written request of an eligible state employee, to reduce each month the salary of the eligible state employee by an amount of money designated by that employee in the employee's deferred compensation contract. The state officer or official may pay that amount to the Public Employees Retirement System for deposit in the Deferred Compensation Fund.

243.445 Employee choice of plans; choice not binding; change in value of employee assets not to affect net worth of state.

(1) When an eligible state employee agrees to participate in the state deferred compensation plan under ORS 243.401 to 243.507, the employee may indicate a preference with respect to the mode of investment or deposit to be used by the state in investing or depositing the deferred income under the plan. The preference indicated by the employee is not binding on the state.

(2) Any change in the net value of the assets of an eligible state employee invested under the state deferred compensation plan shall result in a commensurate change in the total amount distributable to the employee or the beneficiary of the employee, and shall not result in any increase or decrease in the net worth of the state.

243.450 Disclosure statement; contents. The Public Employees Retirement System shall give each eligible state employee who enters into a deferred compensation contract under the state deferred compensation plan, prior to the deferral of any part of that employee's salary, a disclosure statement in writing that contains information regarding the options available under the plan for the investment of deferred compensation, including the probable income and probable safety of the moneys deferred, that persons of reasonable prudence and discretion require when determining the permanent disposition of their funds.

243.460 Effect of deferred compensation on current taxable income and on retirement programs.

(1) The amount by which an eligible state employee's salary is reduced under ORS 243.440 shall continue to be included as regular compensation for the purpose of computing the retirement, pension and Social Security benefits earned by the employee, but that amount shall not be considered current taxable income for the purpose of computing federal and state income taxes withheld on behalf of the employee.

(2) The state deferred compensation plan established by ORS 243.401 to 243.507 supplements all other retirement and pension systems established by the State of Oregon, and participation by an eligible state employee in the state deferred compensation plan shall not cause a reduction of any retirement or pension benefits provided to the employee by law.

243.465 Rollover distribution of deferred amounts to beneficiary.

(1) If a benefit is payable under the state deferred compensation plan described in ORS 243.401 to 243.507 to a beneficiary by reason of the death of an eligible state employee participating in the plan, the beneficiary may elect to have all or part of the distribution of deferred amounts paid as an eligible rollover distribution to an individual retirement plan described in 26 U.S.C. 408(a), or an individual retirement annuity, other than an endowment contract, described in 26 U.S.C. 408(b), if the plan or annuity is established for the purpose of receiving the eligible rollover distribution on behalf of the designated beneficiary.

(2) Subsection (1) of this section applies to an eligible rollover distribution of deferred amounts to a beneficiary who is not treated as the spouse of the decedent for federal tax purposes and who

is the decedent's designated beneficiary for the purposes of the minimum required distribution requirements of 26 U.S.C. 401(a)(9). To the extent provided by rules of the Public Employees Retirement Board, a trust maintained for the benefit of one or more beneficiaries must be treated by the board in the same manner as a trust that is designated as a beneficiary for the purposes of the minimum required distribution requirements of 26 U.S.C. 401(a)(9).

(3) As used in this section, "eligible rollover distribution" has the meaning given that term in 26 U.S.C. 402(c)(4), as in effect on January 1, 2008.

243.470 Administration of deferred compensation program; rules.

(1) Subject to ORS chapter 183, the Public Employees Retirement Board may adopt rules necessary to implement the provisions of ORS 243.401 to 243.507 and determine the terms and conditions of eligible state employee participation and coverage. Rules adopted by the board under this subsection shall establish the terms and conditions of deferred compensation contracts for eligible state employees.

(2) The Public Employees Retirement System shall adopt forms and maintain accounts and records necessary and appropriate to the efficient administration of ORS 243.401 to 243.507 or which may be required by agencies of the State of Oregon or the United States.

(3) The board shall adopt rules and take all actions necessary to maintain compliance of the state deferred compensation plan with requirements for governmental deferred compensation plans imposed by the Internal Revenue Code and by regulations adopted pursuant to the Internal Revenue Code.

(4) The Public Employees Retirement System may contract with a private corporation or institution able and qualified to provide consolidated billing services, state plan participant enrollment services, educational services, state plan participant accounts, data processing, record keeping and other related services that are necessary or appropriate to the administration of the state deferred compensation plan under ORS 243.401 to 243.507.

243.472 Costs of plan administration assessed against participants; apportionment of expenses; expenses not board budgeted items.

(1) ORS 243.401 to 243.507 shall be implemented and administered by the Public Employees Retirement Board so that no expense is incurred by the State of Oregon or the Public Employees Retirement Fund and so that the State of Oregon and the Public Employees Retirement System incur no liabilities other than those liabilities that may be imposed under ORS 243.401 to 243.507 or other law. In addition to the amounts that may be deducted by the State Treasurer pursuant to ORS 293.718, the Public Employees Retirement System may assess a charge against the accounts of state plan participants in the Deferred Compensation Fund. The charge may not exceed two percent of the balances of those accounts. Funds collected pursuant to the charge are continuously appropriated for and shall be used only to cover the costs incurred by the system to administer the state deferred compensation plan, to issue refunds and to pay costs incurred in investing the plan assets.

(2) For the purpose of implementing and administering the provisions of ORS 243.401 to 243.507, including implementation and administration of service agreements entered into with local governments under ORS 243.478, the Public Employees Retirement Board may designate fiscal periods. The board may apportion extraordinary expenses incurred during any fiscal period, including but not limited to expenses for equipment and actuarial studies, to subsequent fiscal periods for purposes of equitably distributing the burden of the expenses. The board may carry forward unexpended fees collected in one fiscal period to a later fiscal period for the payment of future expenses.

(3) In the event the assessment provided for in subsection (1) of this section is inadequate to meet the administrative expenses incurred by the system for the state deferred compensation plan, and these expenses are not carried over to another fiscal period, the excess expenses may be paid by an additional one-time assessment against the account balances of state plan participants in the Deferred Compensation Fund. The additional assessment shall be in an amount determined by the Public Employees Retirement Board to

be sufficient to pay the excess expenses in the fiscal period in which the assessment is made. The one-time assessment is in addition to the regular assessment provided for in subsection (1) of this section.

(4) Deferred compensation benefit payments, and amounts payable as refunds, shall not for any purpose be deemed expenses of the board and shall not be included in its biennial departmental budget.

243.474 Investment of local government plan assets through investment program; agreement with Public Employees Retirement System; charges against participants.

(1) A local government that establishes a deferred compensation plan may invest all or part of the plan's assets through the deferred compensation investment program established by the Oregon Investment Council under ORS 243.421. Plan assets of a local government deferred compensation plan invested through the deferred compensation investment program are not subject to the limitations on investment imposed by ORS 294.033 and 294.035. Local governments that invest through the deferred compensation investment program are subject to the policies and procedures established by the council for the administration of the program.

(2) A local government that wishes to become a participating local government pursuant to this section must enter into a written agreement with the Public Employees Retirement System. The agreement must set forth the terms of the investment and the record keeping and related services to be performed by the system for the invested funds. The Public Employees Retirement Board may require that the local government enter into a service agreement under ORS 243.478 as a condition of an agreement under this subsection. If the local government and the system cannot reach an agreement under the provisions of this subsection, the local government may not become a participating local government.

(3) All funds invested by the council for a participating local government must be accounted for separately. Investment of funds under this section must be implemented and administered so that the State of Oregon incurs no expense or liability other than those liabilities that may be imposed under ORS 243.401 to 243.507 or other law.

(4) In addition to those amounts that may be deducted by the State Treasurer pursuant to ORS 293.718, the system may assess a charge against the total account balances of all participating local governments that is sufficient to reimburse the system for any additional costs of investing funds for participating local governments. The Public Employees Retirement Board shall not act as a trustee or be considered the trustee of any trust established by a local government deferred compensation plan.

(5) The terms of the agreement provided for in subsection (2) of this section shall govern the nature and extent of the information that must be provided to local government officers and employees about the investment of deferred compensation through the deferred compensation investment program.

243.476 Compliance with federal requirements.

(1) As a condition of allowing a local government to become a participating local government, and at any time thereafter, the Oregon Investment Council, the Public Employees Retirement Board or the Director of the Public Employees Retirement System may require that the local government provide proof that the local government deferred compensation plan complies with the provisions of section 457 of the Internal Revenue Code, as amended, that apply to governmental plans, including but not limited to any required declaration of trust related to plan assets and appointment of a trustee. The council, board or director may require an opinion of counsel or other assurance satisfactory to the council, board or director that participation of a local government deferred compensation plan in the deferred compensation investment program does not cause the State of Oregon, its agencies or employees to violate any federal or state laws or regulations related to investments and securities.

(2) Participating local governments shall take all actions that the Oregon Investment Council, the Public Employees Retirement Board or the Director of the Public Employees Retirement System, in their discretion, deem necessary for compliance by the deferred compensation investment program with all applicable federal and state laws or for qualification of the program for any exemptions from regulation

available under those laws, including but not limited to the federal Securities Act of 1933, as amended, the Investment Company Act of 1940, as amended, and ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59.

243.478 Plan administration agreements; costs.

(1) A participating local government and the Public Employees Retirement System may enter into a written agreement for the system to provide consolidated billing services, participant enrollment services, participant accounts, data processing, record keeping and other related services that are necessary or appropriate to the administration of the local government deferred compensation plan. The agreement may provide that the services be provided directly by the system or through contracts with other providers.

(2) Agreements under this section must require that the participating local government remain the responsible administrator for the local government deferred compensation plan. The agreement may provide any additional terms and conditions that the system determines necessary for the purposes of offering the services described in subsection (1) of this section to local government deferred compensation plans, including proof of compliance under ORS 243.476. The system may require that participating local governments that enter into agreements with the system under this section have uniform provisions on plan administration and record keeping.

(3) The system may assess a charge, in an amount to be determined by the system, against the total account balances in the Deferred Compensation Fund of all local governments that have entered into service agreements under this section. The charge imposed under this subsection is in addition to any charges that may be assessed against local governments by the system under ORS 243.474 or deducted by the State Treasurer under ORS 293.718.

(4) In the event the assessment provided for in subsection (3) of this section is inadequate to meet the administrative expenses incurred by the system for local government deferred compensation plans during a fiscal period, and the expenses are not carried over to another fiscal period pursuant to ORS 243.472 (2), the excess expenses may be paid by an additional one-time assessment against the account balances in the Deferred Compensation Fund of participating local governments that have entered into service agreements under this section.

243.482 Immunity of governmental agencies from liability for plan administration or investment of funds.

(1) A civil action for damages may not be brought against the state, the State Treasurer, the Oregon Investment Council, the Public Employees Retirement Board, or the officers or employees of the board by reason of:

(a) A breach of any duty in administering or investing of funds in the Deferred Compensation Fund;

(b) A breach of any duty in administering or investing of the funds of participating local governments; or

(c) Any losses suffered by a state plan participant or local plan participant or the beneficiaries of those participants because of the participant's choice of an investment option available through the deferred compensation investment program established under ORS 243.421.

(2) Any claim that the council, the board, the State Treasurer or the system, or any of their officers or employees, violated federal or state securities laws, including antifraud provisions, in the implementation or administration of ORS 243.401 to 243.507 is subject to the provisions of ORS 30.260 to 30.300. With respect to such claims, the state shall defend, save harmless and indemnify the State Treasurer, the system, members of the council, the board, and their officers and employees, as provided for other torts under the provisions of ORS 30.260 to 30.300.

(3) The limitations on liability established by this section do not include an exemption from

any liability that may be imposed under the provisions of ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59. Except to the extent that the state deferred compensation plan and the deferred compensation investment program are exempted from registration and licensing requirements under ORS 243.421, ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and ORS chapter 59 apply to the administration and investment of the Deferred Compensation Fund, the state deferred compensation plan, local government deferred compensation plans and the deferred compensation investment program.

243.505 Deferred Compensation Advisory Committee.

(1) The Deferred Compensation Advisory Committee shall be appointed by the Public Employees Retirement Board, consisting of seven members with knowledge of deferred compensation plans.

(2) At the direction of the board, the committee shall advise the Public Employees Retirement Board on policies and procedures and such other matters as the board may request.

(3) The term of office of each member is three years, but a member serves at the pleasure of the board. Before the expiration of the term of a member, the board shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the board shall make an appointment to become immediately effective for the unexpired term.

(4) A member of the Deferred Compensation Advisory Committee is entitled to compensation and expenses as provided in ORS 292.495.

(5) The Deferred Compensation Advisory Committee shall select one of its members as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of such offices as the committee determines.

(6) A majority of the members of the committee constitutes a quorum for the transaction of business.

(7) The Deferred Compensation Advisory Committee may meet at a place, day and hour determined by the committee. The committee also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the committee.

243.507 Payment of deferred compensation to alternate payee under judgment or order; procedure; compliance with state and federal requirements; administrative expenses; limitations; rules.

(1) Notwithstanding any other provision of law, deferred compensation under a deferred compensation plan that would otherwise be paid by a public employer to an eligible employee shall be paid, in whole or in part, to an alternate payee if and to the extent expressly provided for in the terms of any judgment of annulment or dissolution of marriage or of separation, or the terms of any court order or court-approved property settlement agreement incident to any judgment of annulment or dissolution of marriage or of separation. Any payment under this subsection to an alternate payee bars recovery by any other person.

(2) A judgment, order or agreement providing for payment to an alternate payee under subsection (1) of this section may also provide:

(a) That payments to the alternate payee may commence earlier than the date the employee would be eligible to receive payments under the provisions of the deferred compensation plan.

(b) That the alternate payee may elect to receive payment in any manner available to the employee under the deferred compensation plan, without regard to the form of payment elected by the employee.

(c) That the alternate payee's life is the measuring life for the purposes of measuring payments to the alternate payee under the form of payment selected by the alternate payee.

(d) That all or a portion of the deferred compensation account of the eligible employee be segregated in an account in the name of and for the benefit of the alternate payee, and that the

alternate payee have the same rights and privileges as an eligible employee only concerning the investment or deposit of funds under the deferred compensation plan.

(3) Subsection (1) of this section applies only to payments of deferred compensation made after the date of receipt by the administrator of the deferred compensation plan of written notice of the judgment, order or agreement and such additional information and documentation as the plan administrator may prescribe.

(4) (a) Payment of all or any part of deferred compensation to an alternate payee who is a child or dependent of the employee shall be reported for state and federal income tax purposes as payment to the eligible employee. Any amount required to be withheld for state or federal income tax purposes shall be withheld from the payment to the alternate payee.

(b) Payment of all or any part of deferred compensation to an alternate payee who is the spouse or former spouse of the employee shall be reported for state and federal income tax purposes as payment to the alternate payee. Any amount required to be withheld for state or federal income tax purposes shall be withheld from the payment to the alternate payee.

(5) If an eligible employee transfers from a deferred compensation plan of a public employer to a deferred compensation plan established by another public employer, the new employer is not required to accept as part of the transfer any portion of the eligible employee's account with the former employer that is subject to judgment, order or agreement requiring payment of that portion of the eligible employee's account to an alternate payee.

(6) If an eligible employee transfers from a deferred compensation plan of a public employer to a deferred compensation plan established by another public employer, the employee's previous employer shall not transfer to the plan established by the new employer any portion of the eligible employee's account that is subject to a judgment, order or agreement requiring payment of that portion of the eligible employee's account to an alternate payee.

(7) The Public Employees Retirement Board, or the plan administrator for any local government deferred compensation plan, may adopt rules, policies or other regulations for the purpose of maintaining compliance of a deferred compensation plan with section 457 of the Internal Revenue Code or any other provision of federal law that affects the tax qualification of a deferred compensation plan. Rules, policies or other regulations adopted under this subsection may vary from the express language of this section if the rules, policies or other regulations are required for the purpose of maintaining compliance of a deferred compensation plan with section 457 of the Internal Revenue Code or any other provision of federal law that affects the tax qualification of a deferred compensation plan.

(8) Any public employer or deferred compensation plan that is required by the provisions of this section to make a payment to an alternate payee shall charge and collect out of the deferred compensation payable to the eligible employee and the alternate payee actual and reasonable administrative expenses and related costs incurred by the public employer or deferred compensation plan in obtaining data and making calculations that are necessary by reason of the provisions of this section. A public employer or deferred compensation plan may not charge more than \$300 for total administrative expenses and related costs incurred in obtaining data or making calculations that are necessary by reason of the provisions of this section. A public employer or deferred compensation plan that charges and collects administrative expenses and related costs under the provisions of this subsection shall allocate those expenses and costs between the eligible employee and the alternate payee based on the fraction of the benefit received by the member or alternate payee.

(9) As used in this section:

(a) "Alternate payee" means a spouse, former spouse, child or other dependent of a member.

(b) "Court" means any court of appropriate jurisdiction of this or any other state or

of the District of Columbia.

(c) “Eligible employee” means a state plan participant or local plan participant.

(d) “Public employer” means the state or a local government that establishes a deferred compensation plan.

243.550 Dependent care assistance plan.

(1) The state or any agency thereof shall establish in its accounting system allowances for employees to dedicate part of their salary to a dependent care assistance plan.

(2) Upon application by a public employee, the state or any agency thereof shall allow the employee to participate in a dependent care assistance plan at that place of employment.

(3) Portions of a public employee’s salary dedicated to a dependent care assistance plan shall be included in any computation of benefits under that employee’s public employee retirement program.

243.555 Definitions for ORS 243.555 to 243.575. As used in ORS 243.555 to 243.575:

(1) “Expense reimbursement plan” means a plan established by the Public Employees’ Benefit Board in accordance with state and federal tax laws to reimburse qualified employee expenses.

(2) “Payroll disbursing officer” means the state officer or official authorized to disburse moneys in payment of salaries and wages of employees of a state agency.

(3) “Qualified employee expenses” includes expenses for dependent care, medical expenses, insurance premiums and any other expenses qualified for tax free reimbursement under the federal Internal Revenue Code.

(4) “State agency” means every state officer, board, commission, department or other activity of state government.

243.560 Rulemaking; charge for administration; records.

(1) The Public Employees’ Benefit Board may provide, administer and maintain an expense reimbursement plan for the benefit of eligible employees of this state.

(2) In providing an expense reimbursement plan, the board shall adopt rules to:

(a) Determine the qualifications of eligible employees and the expenses eligible for reimbursement.

(b) Establish limits on the amount by which an eligible employee’s compensation may be reduced.

(c) Establish procedures for enrollment of eligible employees in an expense reimbursement plan.

(d) Establish requirements for verification of reimbursable expenses.

(3) The board may assess a charge to participating employees to pay the cost of administering the plan or may pay some or all of the cost from funds authorized to pay general administration expenses incurred by the board or from earnings on moneys deposited with the account administrator as designated by the board.

(4) The state shall maintain accounts and records necessary and appropriate to the efficient administration of ORS 243.550 to 243.585 and 657A.440 or that may be required under federal or state law.

243.565 Administration of plan.

(1) The Public Employees’ Benefit Board may contract with a private organization for administration of an expense reimbursement program.

(2) An agreement or contract entered into pursuant to this section may provide that the administering organization shall exercise the authority and responsibility of the board in administering the expense reimbursement program.

243.570 Compensation reduction agreement.

(1) After the adoption of an expense reimbursement plan by the Public Employees' Benefit Board, and prior to the effective date of the plan, the state shall enter into a compensation reduction agreement with eligible employees electing to participate in the plan for the purpose of funding reimbursements under the plan.

(2) The payroll disbursing officer is authorized, upon the enrollment of an eligible employee in the plan, to reduce each pay period the compensation of the eligible employee by the amount specified in the compensation reduction agreement. The payroll disbursing officer may pay that amount to the account administrator as designated by the board. All interest income shall be credited to the account.

243.575 Computation of retirement and pension benefits; taxable income.

(1) The amount by which an eligible employee's compensation is reduced under ORS 243.570 shall continue to be included as regular salary for the purpose of computing the retirement and pension benefits earned by the employee, but that amount shall not be considered current taxable income for the purpose of computing Social Security benefits or federal and state income taxes withheld on behalf of the employee.

(2) All amounts by which compensation is reduced under ORS 243.570 shall remain assets of this state until such time as the amounts are disbursed to or on behalf of eligible employees in accordance with the terms of compensation reduction agreements between the employees and the state.

243.585 Accounting system allowances for dedication of salary.

(1) Any political subdivision in this state may establish in its accounting system allowances for employees to dedicate part of their salary to expenses for dependent care, medical expenses, insurance premiums and any other expenses qualified for tax-free reimbursement under the federal Internal Revenue Code.

(2) Upon application by a public employee, a political subdivision that has established allowances described in subsection (1) of this section may allow the employee to participate in an expense reimbursement plan qualified under the federal Internal Revenue Code at that place of employment.

(3) Portions of a public employee's salary dedicated to an expense reimbursement plan under this section shall be included in any computation of benefits under that employee's public employee retirement program.

(4) The amount by which an eligible employee's compensation is reduced under subsections (1) to (3) of this section shall continue to be included as regular salary for the purpose of computing the retirement and pension benefits earned by the employee, but that amount shall not be considered current taxable income for the purpose of computing Social Security benefits or federal and state income taxes withheld on behalf of the employee.

(5) All amounts by which compensation is reduced under subsection (4) of this section shall remain assets of the political subdivision until such time as the amounts are disbursed to or on behalf of eligible employees in accordance with the terms of compensation reduction agreements between the employees and the state.

(6) The amount by which an eligible employee's salary is reduced shall be deposited with the account administrator as designated by the Public Employees' Benefit Board for disbursement to, or on behalf of, eligible employees in accordance with the terms of compensation reduction agreements between the employees and the state.

COLLECTIVE BARGAINING

243.650 Definitions for ORS 243.650 to 243.782. As used in ORS 243.650 to 243.782, unless the context requires otherwise:

(1) “Appropriate bargaining unit” means the unit designated by the Employment Relations Board or voluntarily recognized by the public employer to be appropriate for collective bargaining. However, an appropriate bargaining unit may not include both academically licensed and unlicensed or nonacademically licensed school employees. Academically licensed units may include but are not limited to teachers, nurses, counselors, therapists, psychologists, child development specialists and similar positions. This limitation does not apply to any bargaining unit certified or recognized prior to June 6, 1995, or to any school district with fewer than 50 employees.

(2) “Board” means the Employment Relations Board.

(3) “Certification” means official recognition by the board that a labor organization is the exclusive representative for all of the employees in the appropriate bargaining unit.

(4) “Collective bargaining” means the performance of the mutual obligation of a public employer and the representative of its employees to meet at reasonable times and confer in good faith with respect to employment relations for the purpose of negotiations concerning mandatory subjects of bargaining, to meet and confer in good faith in accordance with law with respect to any dispute concerning the interpretation or application of a collective bargaining agreement, and to execute written contracts incorporating agreements that have been reached on behalf of the public employer and the employees in the bargaining unit covered by such negotiations. The obligation to meet and negotiate does not compel either party to agree to a proposal or require the making of a concession. This subsection may not be construed to prohibit a public employer and a certified or recognized representative of its employees from discussing or executing written agreements regarding matters other than mandatory subjects of bargaining that are not prohibited by law as long as there is mutual agreement of the parties to discuss these matters, which are permissive subjects of bargaining.

(5) “Compulsory arbitration” means the procedure whereby parties involved in a labor dispute are required by law to submit their differences to a third party for a final and binding decision.

(6) “Confidential employee” means one who assists and acts in a confidential capacity to a person who formulates, determines and effectuates management policies in the area of collective bargaining.

(7) (a) “Employment relations” includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment.

(b) “Employment relations” does not include subjects determined to be permissive, nonmandatory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

(c) After June 6, 1995, “employment relations” does not include subjects that the Employment Relations Board determines to have a greater impact on management’s prerogative than on employee wages, hours, or other terms and conditions of employment.

(d) “Employment relations” does not include subjects that have an insubstantial or de minimis effect on public employee wages, hours, and other terms and conditions of employment.

(e) For school district bargaining, “employment relations” excludes class size, the school or educational calendar, standards of performance or criteria for evaluation of teachers, the school curriculum, reasonable dress, grooming and at-work personal conduct requirements respecting smoking, gum chewing and similar matters of personal conduct, the standards and procedures for student discipline, the time between student classes, the selection, agendas and decisions of 21st Century Schools Councils established under ORS 329.704, requirements for expressing milk under ORS 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

(f) For employee bargaining involving employees covered by ORS 243.736, “employment relations” includes safety issues that have an impact on the on-the-job safety of the employees or staffing levels that have a significant impact on the on-the-job safety of the employees.

(g) For all other employee bargaining except school district bargaining and except as provided in paragraph (f) of this subsection, “employment relations” excludes staffing levels and safety issues (except those staffing levels and safety issues that have a direct and substantial effect on the on-the-job safety of public employees), scheduling of services provided to the public, determination of the minimum qualifications necessary for any position, criteria for evaluation or performance appraisal, assignment of duties, workload when the effect on duties is insubstantial, reasonable dress, grooming, and at-work personal conduct requirements respecting smoking, gum chewing, and similar matters of personal conduct at work, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

(8) “Exclusive representative” means the labor organization that, as a result of certification by the board or recognition by the employer, has the right to be the collective bargaining agent of all employees in an appropriate bargaining unit.

(9) “Fact-finding” means identification of the major issues in a particular labor dispute by one or more impartial individuals who review the positions of the parties, resolve factual differences and make recommendations for settlement of the dispute.

(10) “Fair-share agreement” means an agreement between the public employer and the recognized or certified bargaining representative of public employees whereby employees who are not members of the employee organization are required to make an in-lieu-of-dues payment to an employee organization except as provided in ORS 243.666. Upon the filing with the board of a petition by 30 percent or more of the employees in an appropriate bargaining unit covered by such union security agreement declaring they desire that the agreement be rescinded, the board shall take a secret ballot of the employees in the unit and certify the results thereof to the recognized or certified bargaining representative and to the public employer. Unless a majority of the votes cast in an election favor the union security agreement, the board shall certify deauthorization of the agreement. A petition for deauthorization of a union security agreement must be filed not more than 90 calendar days after the collective bargaining agreement is executed. Only one such election may be conducted in any appropriate bargaining unit during the term of a collective bargaining agreement between a public employer and the recognized or certified bargaining representative.

(11) “Final offer” means the proposed contract language and cost summary submitted to the mediator within seven days of the declaration of impasse.

(12) “Labor dispute” means any controversy concerning employment relations or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment relations, regardless of whether the disputants stand in the proximate relation of employer and employee.

(13) “Labor organization” means any organization that has as one of its purposes representing employees in their employment relations with public employers.

(14) “Last best offer package” means the offer exchanged by parties not less than 14 days prior to the date scheduled for an interest arbitration hearing.

(15) “Legislative body” means the Legislative Assembly, the city council, the county commission and any other board or commission empowered to levy taxes.

(16) “Managerial employee” means an employee of the State of Oregon who possesses authority to formulate and carry out management decisions or who represents management’s interest by taking or effectively recommending discretionary actions that control or implement employer policy, and who has discretion in the performance of these management responsibilities beyond the routine discharge of duties. A “managerial employee” need not act in a supervisory capacity in relation to other employees. Notwithstanding this subsection, “managerial employee” does not include faculty members at a community college,

college or university.

(17) “Mediation” means assistance by an impartial third party in reconciling a labor dispute between the public employer and the exclusive representative regarding employment relations.

(18) “Payment-in-lieu-of-dues” means an assessment to defray the cost for services by the exclusive representative in negotiations and contract administration of all persons in an appropriate bargaining unit who are not members of the organization serving as exclusive representative of the employees. The payment must be equivalent to regular union dues and assessments, if any, or must be an amount agreed upon by the public employer and the exclusive representative of the employees.

(19) “Public employee” means an employee of a public employer but does not include elected officials, persons appointed to serve on boards or commissions, incarcerated persons working under section 41, Article I of the Oregon Constitution, or persons who are confidential employees, supervisory employees or managerial employees.

(20) “Public employer” means the State of Oregon, and the following political subdivisions: Cities, counties, community colleges, school districts, special districts, mass transit districts, metropolitan service districts, public service corporations or municipal corporations and public and quasi-public corporations.

(21) “Public employer representative” includes any individual or individuals specifically designated by the public employer to act in its interests in all matters dealing with employee representation, collective bargaining and related issues.

(22) “Strike” means a public employee’s refusal in concerted action with others to report for duty, or his or her willful absence from his or her position, or his or her stoppage of work, or his or her absence in whole or in part from the full, faithful or proper performance of his or her duties of employment, for the purpose of inducing, influencing or coercing a change in the conditions, compensation, rights, privileges or obligations of public employment; however, nothing shall limit or impair the right of any public employee to lawfully express or communicate a complaint or opinion on any matter related to the conditions of employment.

(23) “Supervisory employee” means any individual having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection therewith, the exercise of the authority is not of a merely routine or clerical nature but requires the use of independent judgment. Failure to assert supervisory status in any Employment Relations Board proceeding or in negotiations for any collective bargaining agreement does not thereafter prevent assertion of supervisory status in any subsequent board proceeding or contract negotiation. Notwithstanding the provisions of this subsection, a nurse, charge nurse or similar nursing position may not be deemed to be supervisory unless that position has traditionally been classified as supervisory.

(24) “Unfair labor practice” means the commission of an act designated an unfair labor practice in ORS 243.672.

(25) “Voluntary arbitration” means the procedure whereby parties involved in a labor dispute mutually agree to submit their differences to a third party for a final and binding decision.

243.656 Policy statement. The Legislative Assembly finds and declares that:

(1) The people of this state have a fundamental interest in the development of harmonious and cooperative relationships between government and its employees;

(2) Recognition by public employers of the right of public employees to organize and full acceptance of the principle and procedure of collective negotiation between public employers and public employee organizations can alleviate various forms of strife and unrest. Experience in the private and public sectors of our economy has proved that unresolved disputes in the public service are injurious to the public,

the governmental agencies, and public employees;

(3) Experience in private and public employment has also proved that protection by law of the right of employees to organize and negotiate collectively safeguards employees and the public from injury, impairment and interruptions of necessary services, and removes certain recognized sources of strife and unrest, by encouraging practices fundamental to the peaceful adjustment of disputes arising out of differences as to wages, hours, terms and other working conditions, and by establishing greater equality of bargaining power between public employers and public employees;

(4) The state has a basic obligation to protect the public by attempting to assure the orderly and uninterrupted operations and functions of government; and

(5) It is the purpose of ORS 243.650 to 243.782 to obligate public employers, public employees and their representatives to enter into collective negotiations with willingness to resolve grievances and disputes relating to employment relations and to enter into written and signed contracts evidencing agreements resulting from such negotiations. It is also the purpose of ORS 243.650 to 243.782 to promote the improvement of employer-employee relations within the various public employers by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice, and to be represented by such organizations in their employment relations with public employers.

243.662 Rights of public employees to join labor organizations. Public employees have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with their public employer on matters concerning employment relations.

243.666 Certified or recognized labor organization as exclusive employee group representative; protection of employee nonassociation rights.

(1) A labor organization certified by the Employment Relations Board or recognized by the public employer is the exclusive representative of the employees of a public employer for the purposes of collective bargaining with respect to employment relations. Nevertheless any agreements entered into involving union security including an all-union agreement or agency shop agreement must safeguard the rights of nonassociation of employees, based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employee affected and the representative of the labor organization to which such employee would otherwise be required to pay dues. The employee shall furnish written proof to the employer of the employee that this has been done.

(2) Notwithstanding the provisions of subsection (1) of this section, an individual employee or group of employees at any time may present grievances to their employer and have such grievances adjusted, without the intervention of the labor organization, if:

(a) The adjustment is not inconsistent with the terms of a collective bargaining contract or agreement then in effect; and

(b) The labor organization has been given opportunity to be present at the adjustment.

(3) Nothing in this section prevents a public employer from recognizing a labor organization which represents at least a majority of employees as the exclusive representative of the employees of a public employer when the board has not designated the appropriate bargaining unit or when the board has not certified an exclusive representative in accordance with ORS 243.686.

243.672 Unfair labor practices; complaints; filing fees.

(1) It is an unfair labor practice for a public employer or its designated representative to do any of the following:

(a) Interfere with, restrain or coerce employees in or because of the exercise of rights guaranteed in ORS 243.662.

(b) Dominate, interfere with or assist in the formation, existence or administration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any terms or condition of employment for the purpose of encouraging or discouraging membership in an employee organization. Nothing in this section is intended to prohibit the entering into of a fair-share agreement between a public employer and the exclusive bargaining representative of its employees. If a "fair-share" agreement has been agreed to by the public employer and exclusive representative, nothing prohibits the deduction of the payment-in-lieu-of-dues from the salaries or wages of the employees.

(d) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or has given information or testimony under ORS 243.650 to 243.782.

(e) Refuse to bargain collectively in good faith with the exclusive representative.

(f) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

(g) Violate the provisions of any written contract with respect to employment relations including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept arbitration awards as final and binding upon them.

(h) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(2) Subject to the limitations set forth in this subsection, it is an unfair labor practice for a public employee or for a labor organization or its designated representative to do any of the following:

(a) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under ORS 243.650 to 243.782.

(b) Refuse to bargain collectively in good faith with the public employer if the labor organization is an exclusive representative.

(c) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

(d) Violate the provisions of any written contract with respect to employment relations, including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept arbitration awards as final and binding upon them.

(e) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(f) For any labor organization to engage in unconventional strike activity not protected for private sector employees under the National Labor Relations Act on June 6, 1995. This provision applies to sitdown, slowdown, rolling, intermittent or on-and-off again strikes.

(g) For a labor organization or its agents to picket or cause, induce, or encourage to be picketed, or threaten to engage in such activity, at the residence or business premises of any individual who is a member of the governing body of a public employer, with respect to a dispute over a collective bargaining agreement or negotiations over employment relations, if an objective or effect of such picketing is to induce another person to cease doing business with the governing body member's business or to cease handling, transporting or dealing in goods or services produced at the governing body's business. For purposes of this paragraph, a member of the Legislative Assembly is a member of the governing body of a public employer when the collective bargaining negotiation or dispute is between the State of Oregon and a labor organization. The Governor and other statewide elected officials are not considered members of a governing body for purposes of this paragraph. Nothing in this unfair labor practice provision shall be inter-

preted or applied in a manner that violates the right of free speech and assembly as protected by the Constitution of the United States or the Constitution of the State of Oregon.

(3) An injured party may file a written complaint with the Employment Relations Board not later than 180 days following the occurrence of an unfair labor practice. For each unfair labor practice complaint filed, a fee of \$250 is imposed. For each answer to an unfair labor practice complaint filed with the board, a fee of \$250 is imposed. The board may allow any other person to intervene in the proceeding and to present testimony. A person allowed to intervene shall pay a fee of \$250 to the board. The board may, in its discretion, order fee reimbursement to the prevailing party in any case in which the complaint or answer is found to have been frivolous or filed in bad faith. The board shall deposit fees received under this section to the credit of the Employment Relations Board Administrative Account.

243.676 Processing of unfair labor practice complaints; civil penalties.

(1) Whenever a written complaint is filed alleging that any person has engaged in or is engaging in any unfair labor practice listed in ORS 243.672 (1) and (2) and 243.752, the Employment Relations Board or its agent shall:

(a) Cause to be served upon such person a copy of the complaint;

(b) Investigate the complaint to determine if a hearing on the unfair labor practice charge is warranted. If the investigation reveals that no issue of fact or law exists, the board may dismiss the complaint; and

(c) Set the matter for hearing if the board finds in its investigation made pursuant to paragraph (b) of this subsection that an issue of fact or law exists. The hearing shall be before the board or an agent of the board not more than 20 days after a copy of the complaint has been served on the person.

(2) Where, as a result of the hearing required pursuant to subsection (1)(c) of this section, the board finds that any person named in the complaint has engaged in or is engaging in any unfair labor practice charged in the complaint, the board shall:

(a) State its findings of fact;

(b) Issue and cause to be served on such person an order that the person cease and desist from the unfair labor practice;

(c) Take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as necessary to effectuate the purposes of ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290;

(d) Designate the amount and award representation costs, if any, to the prevailing party; and

(e) Designate the amount and award attorney fees, if any, to the prevailing party on appeal, including proceedings for Supreme Court review, of a board order.

(3) Where the board finds that the person named in the complaint has not engaged in or is not engaging in an unfair labor practice, the board shall:

(a) Issue an order dismissing the complaint; and

(b) Designate the amount and award representation costs, if any, to the prevailing party.

(4) The board may award a civil penalty to any person as a result of an unfair labor practice complaint hearing, in the aggregate amount of up to \$1,000 per case, without regard to attorney fees, if:

(a) The complaint has been affirmed pursuant to subsection (2) of this section and the board finds that the person who has committed, or who is engaging, in an unfair labor practice has done so repetitively, knowing that the action taken was an unfair labor practice and took the action disregarding

this knowledge, or that the action constituting the unfair labor practice was egregious; or

(b) The complaint has been dismissed pursuant to subsection (3) of this section, and that the complaint was frivolously filed, or filed with the intent to harass the other person, or both.

(5) As used in subsections (1) to (4) of this section, “person” includes but is not limited to individuals, labor organizations, associations and public employers.

243.682 Representation questions; investigation and hearings on petitions; certification without election; rules; elections.

(1) If a question of representation exists, the Employment Relations Board shall:

(a) Upon application of a public employer, public employee or a labor organization, designate the appropriate bargaining unit, and in making its determination shall consider such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. The board may determine a unit to be the appropriate unit in a particular case even though some other unit might also be appropriate.

(b) Investigate and conduct a hearing on a petition that has been filed by:

(A) A labor organization alleging that 30 percent of the employees in an appropriate bargaining unit desire to be represented for collective bargaining by an exclusive representative;

(B) A labor organization alleging that 30 percent of the employees in an appropriate bargaining unit assert that the designated exclusive representative is no longer the representative of the majority of the employees in the unit;

(C) A public employer alleging that one or more labor organizations has presented a claim to the public employer requesting recognition as the exclusive representative in an appropriate bargaining unit; or

(D) An employee or group of employees alleging that 30 percent of the employees assert that the designated exclusive representative is no longer the representative of the majority of employees in the unit.

(2) (a) Notwithstanding subsection (1) of this section, when an employee, group of employees or labor organization acting on behalf of the employees files a petition alleging that a majority of employees in a unit appropriate for the purpose of collective bargaining wish to be represented by a labor organization for that purpose, the board shall investigate the petition. If the board finds that a majority of the employees in a unit appropriate for bargaining have signed authorizations designating the labor organization specified in the petition as the employees’ bargaining representative and that no other labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit, the board may not conduct an election but shall certify the labor organization as the exclusive representative unless a petition for a representation election is filed as provided in subsection (3) of this section.

(b) The board by rule shall develop guidelines and procedures for the designation by employees of a bargaining representative in the manner described in paragraph (a) of this subsection. The guidelines and procedures must include:

(A) Model collective bargaining authorization language that may be used for purposes of making the designations described in paragraph (a) of this subsection;

(B) Procedures to be used by the board to establish the authenticity of signed authorizations designating bargaining representatives;

(C) Procedures to be used by the board to notify affected employees of the filing of a petition requesting certification under subsection (3) of this section;

(D) Procedures for filing a petition to request a representation election, in-

cluding a timeline of not more than 14 days after notice has been delivered to the affected employees of a petition filed under paragraph (a) of this subsection; and

(E) Procedures for expedited resolution of any dispute about the scope of the appropriate bargaining unit. The resolution of the dispute may occur after an election is conducted.

(c) Solicitation and rescission of a signed authorization designating bargaining representatives are subject to the provisions of ORS 243.672.

(3) (a) Notwithstanding subsection (2) of this section, when a petition requesting certification has been filed under subsection (2) of this section, an employee or a group of employees in the unit designated by the petition may file a petition with the board to request that a representation election be conducted.

(b) The petition requesting a representation election must be supported by at least 30 percent of the employees in the bargaining unit designated by the petition.

(c) The representation election shall be conducted on-site or by mail not later than 45 days after the date on which the petition was filed.

(4) Except as provided in ORS 243.692, if the board finds in a hearing conducted pursuant to subsection (1)(b) of this section that a question of representation exists, the board shall conduct an election by secret ballot, at a time and place convenient for the employees of the jurisdiction and also within a reasonable period of time after the filing has taken place, and certify the results of the election.

243.686 Representation elections; ballot form; determining organization to be certified; consent elections.

(1) The Employment Relations Board shall place on the ballot only those labor organizations designated to be placed on the ballot by more than 10 percent of the employees in an appropriate bargaining unit.

(2) The ballot shall contain a provision for marking no representation.

(3) The board shall determine who is eligible to vote in the election and require the employer to provide a complete list of all such eligible persons, their names, addresses and job classifications to each candidate organization on the ballot at least 20 days before the election is to occur.

(4) The labor organization which receives the majority of the votes cast in an election shall be certified by the board as the exclusive representative.

(5) In any election where there are more than two choices on the ballot and none of the choices receives a majority of the votes cast, a runoff election shall be conducted. The ballot in the runoff election shall contain the two choices on the original ballot that received the largest number of votes.

(6) (a) In conducting an election involving the faculty of a university administered by the State Board of Higher Education, the Employment Relations Board shall place on the same ballot provisions for voting on two issues:

(A) For or against representation; and

(B) For those labor organizations designated to be placed on the ballot by more than 10 percent of the employees in an appropriate bargaining unit.

(b) If a majority of votes in paragraph (a)(A) of this subsection are cast in favor of no representation, the board shall not count the votes cast for labor organizations and shall certify no representative for the unit.

(c) If a majority of votes in paragraph (a)(A) of this subsection are cast in favor of representation, the board shall count the votes in paragraph (a)(B) of this subsection for the designated labor organizations and, if an organization receives a majority of those votes cast, shall certify that organiza-

tion as the exclusive representative. If no labor organization receives a majority of the votes cast in paragraph (a)(B) of this subsection, a runoff election shall be conducted. The ballot in the runoff election shall contain only the two labor organizations that received the largest number of votes.

(7) Nothing in this section is intended to prohibit the waiving of hearings by stipulation for the purpose of a consent election, in conformity with the rules of the board.

243.692 Limitation on successive representation elections.

(1) No election shall be conducted under ORS 243.682 (4) in any appropriate bargaining unit within which during the preceding 12-month period an election was held, nor during the term of any lawful collective bargaining agreement between a public employer and an employee representative. However, a contract with a term of more than three years shall be a bar for only the first three years of its term.

(2) Notwithstanding subsection (1) of this section, the Employment Relations Board shall rule that a contract will not be given the effect of barring an election if it finds that:

(a) Unusual circumstances exist under which the contract is no longer a stabilizing force; and

(b) An election should be held to restore stability to the representation of employees in the unit.

(3) A petition for an election where a contract exists must be filed not more than 90 calendar days and not less than 60 calendar days before the end of the contract period. If the contract is for more than three years, a petition for election may be filed any time after three years from the effective date of the contract.

243.696 State agency representatives in bargaining; Chief Justice as representative of judicial branch.

(1) The Oregon Department of Administrative Services shall represent all state agencies which have bargaining units in collective bargaining negotiations with the certified or recognized exclusive representatives of all appropriate bargaining units of exempt, unclassified and classified employees, except those unclassified employees governed by the provisions of ORS 240.240. The department may delegate such collective bargaining responsibility to operating agencies as may be appropriate.

(2) The Chief Justice of the Supreme Court shall represent the judicial department in collective bargaining negotiations with the certified or recognized exclusive representatives of all appropriate bargaining units of officers and employees of the courts of this state who are state officers or employees. The Chief Justice may delegate such collective bargaining responsibility to the state court administrator.

243.698 Expedited bargaining process; notice; implementation of proposed changes.

(1) When the employer is obligated to bargain over employment relations during the term of a collective bargaining agreement and the exclusive representative demands to bargain, the bargaining may not, without the consent of both parties and provided the parties have negotiated in good faith, continue past 90 calendar days after the date the notification specified in subsection (2) of this section is received.

(2) The employer shall notify the exclusive representative in writing of anticipated changes that impose a duty to bargain.

(3) Within 14 calendar days after the employer's notification of anticipated changes specified in subsection (2) of this section is sent, the exclusive representative may file a demand to bargain. If a demand to bargain is not filed within 14 days of the notice, the exclusive representative waives its right to bargain over the change or the impact of the change identified in the notice.

(4) The expedited bargaining process shall cease 90 calendar days after the written notice described in subsection (2) of this section is sent, and the employer may implement the proposed changes without further obligations to bargain. At any time during the 90-day period, the parties jointly may agree to

mediation, but that mediation shall not continue past the 90-day period from the date the notification specified in subsection (2) of this section is sent. Neither party may seek binding arbitration during the 90-day period.

243.702 Renegotiation of invalid provisions in agreements.

(1) In the event any words or sections of a collective bargaining agreement are declared to be invalid by any court of competent jurisdiction, by ruling by the Employment Relations Board, by statute or constitutional amendment or by inability of the employer or the employees to perform to the terms of the agreement, then upon request by either party the invalid words or sections of the collective bargaining agreement shall be reopened for negotiation.

(2) Renegotiation of a collective bargaining agreement pursuant to this section is subject to ORS 243.698.

243.706 Agreement may provide for grievance and other disputes to be resolved by binding arbitration or other resolution process; powers of arbitrator.

(1) A public employer may enter into a written agreement with the exclusive representative of an appropriate bargaining unit setting forth a grievance procedure culminating in binding arbitration or any other dispute resolution process agreed to by the parties. As a condition of enforceability, any arbitration award that orders the reinstatement of a public employee or otherwise relieves the public employee of responsibility for misconduct shall comply with public policy requirements as clearly defined in statutes or judicial decisions including but not limited to policies respecting sexual harassment or sexual misconduct, unjustified and egregious use of physical or deadly force and serious criminal misconduct, related to work. In addition, with respect to claims that a grievant should be reinstated or otherwise relieved of responsibility for misconduct based upon the public employer's alleged previous differential treatment of employees for the same or similar conduct, the arbitration award must conform to the following principles:

(a) Some misconduct is so egregious that no employee can reasonably rely on past treatment for similar offenses as a justification or defense to discharge or other discipline.

(b) Public managers have a right to change disciplinary policies at any time, notwithstanding prior practices, if such managers give reasonable advance notice to affected employees and the change does not otherwise violate a collective bargaining agreement.

(2) In addition to subsection (1) of this section, a public employer may enter into a written agreement with the exclusive representative of its employees providing that a labor dispute over conditions and terms of a contract may be resolved through binding arbitration.

(3) In an arbitration proceeding under this section, the arbitrators, or a majority of the arbitrators, may:

(a) Issue subpoenas on their own motion or at the request of a party to the proceeding to:

(A) Compel the attendance of a witness properly served by either party; and

(B) Require from either party the production of books, papers and documents the arbitrators find are relevant to the proceeding;

(b) Administer oaths or affirmations to witnesses; and

(c) Adjourn a hearing from day to day, or for a longer time, and from place to place.

(4) The arbitrators shall promptly provide a copy of a subpoena issued under this section to each party to the arbitration proceeding.

(5) The arbitrators issuing a subpoena under this section may rule on objections to the issuance of the subpoena.

(6) If a person fails to comply with a subpoena issued under this section or if a witness refuses to testify on a matter on which the witness may be lawfully questioned, the party who requested the subpoena or seeks the testimony may apply to the arbitrators for an order authorizing the party to apply to the circuit court of any county to enforce the subpoena or compel the testimony. On the application of the attorney of record for the party or on the application of the arbitrators, or a majority of the arbitrators, the court may require the person or witness to show cause why the person or witness should not be punished for contempt of court to the same extent and purpose as if the proceedings were pending before the court.

(7) Witnesses appearing pursuant to subpoena, other than parties or officers or employees of the public employer, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2).

243.712 Mediation upon failure to agree after 150-day period; impasse; final offer; fact-finding; effect of subsequent arbitration decision.

(1) If after a 150-calendar-day period of good faith negotiations over the terms of an agreement or 150 days after certification or recognition of an exclusive representative, no agreement has been signed, either or both of the parties may notify the Employment Relations Board of the status of negotiations and the need for assignment of a mediator. Any period of time in which the public employer or labor organization has been found by the Employment Relations Board to have failed to bargain in good faith shall not be counted as part of the 150-day period. This provision cannot be invoked by the party found to have failed to bargain in good faith. The parties may agree to request a mediator before the end of the 150-day period. Upon receipt of such notification, the board shall appoint a mediator and shall notify the parties of the appointment. The 150 days of negotiation shall begin when the parties meet for the first bargaining session and each party has received the other party's initial proposal.

(2) The board on the request of one of the parties shall render assistance to resolve the labor dispute according to the following schedule:

(a) Mediation shall be provided by the State Conciliation Service as provided by ORS 662.405 to 662.455. Any time after 15 days of mediation, either party may declare an impasse. The mediator may declare an impasse at any time during the mediation process. Notification of an impasse shall be filed in writing with the board, and copies of the notification shall be submitted to the parties on the same day the notification is filed with the board.

(b) Within seven days of the declaration of impasse, each party shall submit to the mediator in writing the final offer of the party, including a cost summary of the offer. Upon receipt of the final offers, the mediator shall make public the final offers, including any proposed contract language and each party's cost summary dealing with those issues, on which the parties have failed to reach agreement. Each party's proposed contract language shall be titled "Final Offer."

(c) Within 30 days after the mediator makes public the parties' final offers, the parties may agree and must jointly petition the Employment Relations Board to appoint a fact finder. If the parties jointly petition for fact-finding, a fact finder shall be appointed and the hearing conducted as provided in ORS 243.722.

(d) If no agreement has been reached 30 days after the mediator makes public the final offers, or if the parties participated in fact-finding, 30 days after the receipt of the fact finder's report, the public employer may implement all or part of its final offer, and the public employees have the right to strike. After a collective bargaining agreement has expired, and prior to agreement on a successor contract, the status quo with respect to employment relations shall be preserved until completion of impasse procedures except that no public employer shall be required to increase contributions for insurance premiums unless the expiring collective bargaining agreement provides otherwise. Merit step and longevity step pay increases shall be part of the status quo unless the expiring collective bargaining agreement expressly provides otherwise.

(e) Nothing in this section shall be construed to prohibit the parties at any time from

voluntarily agreeing to submit any or all of the issues in dispute to final and binding arbitration. The arbitration shall be scheduled and conducted in accordance with ORS 243.746. The arbitration shall supersede the dispute resolution procedures set forth in ORS 243.726 and 243.746.

243.716 Use of volunteers not contracting out for services. The use of volunteers to provide services shall not be considered contracting out for services. The use of reserve police personnel that does not require layoff shall not be considered contracting out for services.

243.722 Fact-finding procedure; costs; basis for findings and opinions; effect of subsequent arbitration decision.

(1) In carrying out the fact-finding procedures authorized in ORS 243.712 (2)(c), the public employer and the exclusive representative may select their own fact finder.

(2) (a) Where the parties have not selected their own fact finder within five days after written acknowledgment by the Employment Relations Board that fact-finding has been jointly initiated, the board shall submit to the parties a list of seven qualified, disinterested, unbiased persons. A list of Oregon fact-finding interest arbitrations for which each person has issued an award shall be included. Each party shall alternately strike three names from the list. The order of striking shall be determined by lot. The remaining individual shall be designated the "fact finder."

(b) When both parties desire a panel of three fact finders instead of one as provided in this subsection, the board shall submit to the parties a list of seven qualified, unbiased, disinterested persons. Each party shall alternately strike two names from the list. The order of striking shall be determined by lot. The remaining three persons shall be designated "fact finders."

(c) When the parties have not designated the fact finder and notified the board of their choice within five days after receipt of the list, the board shall appoint the fact finder from the list. However, if one of the parties strikes the names as prescribed in this subsection and the other party fails to do so, the board shall appoint the fact finder only from the names remaining on the list.

(d) The concerns regarding the bias and qualifications of the person designated by lot or by appointment may be challenged by a petition filed directly with the board. A hearing shall be held by the board within 10 days of filing the petition and the board shall issue a final and binding decision regarding the person's neutrality within 10 days of the hearing.

(3) The fact finder shall establish dates and places of hearings. Upon the request of either party or the fact finder, the board shall issue subpoenas. The fact finder may administer oaths and shall afford all parties full opportunity to examine and cross-examine all witnesses and to present any evidence pertinent to the dispute. Not more than 30 days from the date of conclusion of the hearings, the fact finder shall make written findings of fact and recommendations for resolution of the dispute and shall serve such findings and recommendations upon the parties and upon the board. Service may be personal or by registered or certified mail. Not more than five working days after the findings and recommendations have been sent, the parties shall notify the board and each other whether or not they accept the recommendations of the fact finder. If the parties do not accept them, the board, five days after receiving notice that one or both of the parties do not accept the findings, shall publicize the fact finder's findings of facts and recommendations.

(4) The parties may voluntarily agree at any time during or after fact-finding to submit any or all of the issues in dispute to final and binding arbitration, and if such agreement is reached prior to the publication of the fact finder's findings of facts and recommendations, the board shall not publicize such findings and recommendations.

(5) The cost of fact-finding shall be borne equally by the parties involved in the dispute.

(6) Fact finders shall base their findings and opinions on the matters prescribed in this subsection in accordance with the criteria set out in ORS 243.746 (4)(a) to (h).

243.726 Public employee strikes; equitable relief against certain strikes; effect of unfair labor practice charge on prohibited strike.

(1) Participation in a strike shall be unlawful for any public employee who is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the Employment Relations Board or recognized by the employer; or is included in an appropriate bargaining unit that provides for resolution of a labor dispute by petition to final and binding arbitration; or when the strike is not made lawful under ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290.

(2) It shall be lawful for a public employee who is not prohibited from striking under subsection (1) of this section and who is in the appropriate bargaining unit involved in a labor dispute to participate in a strike over mandatory subjects of bargaining provided:

(a) The requirements of ORS 243.712 and 243.722 relating to the resolution of labor disputes have been complied with in good faith;

(b) Thirty days have elapsed since the board has made public the fact finder's findings of fact and recommendations or the mediator has made public the parties' final offers;

(c) The exclusive representative has given 10 days' notice by certified mail of its intent to strike and stating the reasons for its intent to strike to the board and the public employer;

(d) The collective bargaining agreement has expired, or the labor dispute arises pursuant to a reopener provision in a collective bargaining agreement or renegotiation under ORS 243.702 (1) or renegotiation under ORS 243.698; and

(e) The union's strike does not include unconventional strike activity not protected under the National Labor Relations Act on June 6, 1995, and does not constitute an unfair labor practice under ORS 243.672 (2)(f).

(3) (a) Where the strike occurring or is about to occur creates a clear and present danger or threat to the health, safety or welfare of the public, the public employer concerned may petition the circuit court of the county in which the strike has taken place or is to take place for equitable relief including but not limited to appropriate injunctive relief.

(b) If the strike is a strike of state employees the petition shall be filed in the Circuit Court of Marion County.

(c) If, after hearing, the court finds that the strike creates a clear and present danger or threat to the health, safety or welfare of the public, it shall grant appropriate relief. Such relief shall include an order that the labor dispute be submitted to final and binding arbitration within 10 days of the court's order pursuant to procedures in ORS 243.746.

(4) (a) No labor organization shall declare or authorize a strike of public employees that is or would be in violation of this section. When it is alleged in good faith by the public employer that a labor organization has declared or authorized a strike of public employees that is or would be in violation of this section, the employer may petition the board for a declaration that the strike is or would be unlawful. The board, after conducting an investigation and hearing, may make such declaration if it finds that such declaration or authorization of a strike is or would be unlawful.

(b) When a labor organization or individual disobeys an order of the appropriate circuit court issued pursuant to enforcing an order of the board involving this section and ORS 243.736, they shall be punished according to the provisions of ORS 33.015 to 33.155, except that the amount of the fine shall be at the discretion of the court.

(5) An unfair labor practice by a public employer shall not be a defense to a prohibited strike. The board upon the filing of an unfair labor charge alleging that a public employer has committed an unfair labor practice during or arising out of the collective bargaining procedures set forth in ORS 243.712

and 243.722, shall take immediate action on such charge and if required, petition the court of competent jurisdiction for appropriate relief or a restraining order.

(6) As used in this section, “danger or threat to the health, safety or welfare of the public” does not include an economic or financial inconvenience to the public or to the public employer that is normally incident to a strike by public employees.

243.732 Refusal to cross picket line as prohibited strike. Public employees, other than those engaged in a nonprohibited strike, who refuse to cross a picket line shall be deemed to be engaged in a prohibited strike and shall be subject to the terms and conditions of ORS 243.726, pertaining to prohibited strikes.

243.736 Strikes by deputy district attorneys and certain emergency and public safety personnel.

(1) It is unlawful for any of the following public employees to strike or recognize a picket line of a labor organization while in the performance of official duties:

- (a) Deputy district attorneys;
- (b) Emergency telephone worker;
- (c) Employee of the Oregon Youth Authority who has custody, control or supervision of youth offenders;
- (d) Firefighter;
- (e) Guard at a correctional institution or mental hospital;
- (f) Parole and probation officer who supervises adult offenders; and
- (g) Police officer.

(2) As used in this section, “emergency telephone worker” means a person whose official focal duties are receiving information through a 9-1-1 emergency reporting system under ORS 403.105 to 403.250, relaying the information to public or private safety agencies or dispatching emergency equipment or personnel in response to the information.

243.738 Strikes by employees of mass transit districts, transportation districts and municipal bus systems.

(1) It is unlawful for any employee of a mass transit district, transportation district or municipal bus system to strike or recognize a picket line of a labor organization while in the performance of official duties.

(2) As used in this section:

(a) “Mass transit district” means a mass transit district established under ORS 267.010 to 267.390.

(b) “Transportation district” means a transportation district established under ORS 267.510 to 267.650.

243.742 Binding arbitration when strike prohibited.

(1) It is the public policy of the State of Oregon that where the right of employees to strike is by law prohibited, it is requisite to the high morale of such employees and the efficient operation of such departments to afford an alternate, expeditious, effective and binding procedure for the resolution of labor disputes and to that end the provisions of ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290, providing for compulsory arbitration, shall be liberally construed.

(2) When the procedures set forth in ORS 243.712 and 243.722, relating to mediation of a labor dispute, have not culminated in a signed agreement between the parties who are prohibited from strik-

ing, the public employer and exclusive representative of its employees shall include with the final offer filed with the mediator a petition to the Employment Relations Board in writing which initiates binding arbitration for bargaining units with employees referred to in ORS 243.736 (1). Arbitration shall be scheduled by mutual agreement not earlier than 30 days following the submission of the final offer packages to the mediator. Arbitration shall be scheduled in accordance with the procedures prescribed in ORS 243.746.

243.746 Selection of arbitrator; arbitration procedure; last best offers; bases for findings and opinions; sharing arbitration costs.

(1) In carrying out the arbitration procedures authorized in ORS 243.712 (2)(e), 243.726 (3)(c) and 243.742, the public employer and the exclusive representative may select their own arbitrator.

(2) Where the parties have not selected their own arbitrator within five days after notification by the Employment Relations Board that arbitration is to be initiated, the board shall submit to the parties a list of seven qualified, disinterested, unbiased persons. A list of Oregon interest arbitrations and fact-findings for which each person has issued an award shall be included. Each party shall alternately strike three names from the list. The order of striking shall be determined by lot. The remaining individual shall be designated the "arbitrator":

(a) When the parties have not designated the arbitrator and notified the board of their choice within five days after receipt of the list, the board shall appoint the arbitrator from the list. However, if one of the parties strikes the names as prescribed in this subsection and the other party fails to do so, the board shall appoint the arbitrator only from the names remaining on the list.

(b) The concerns regarding the bias and qualifications of the person designated by lot or by appointment may be challenged by a petition filed directly with the board. A hearing shall be held by the board within 10 days of filing of the petition and the board shall issue a final and binding decision regarding the person's neutrality within 10 days of the hearing.

(3) The arbitrator shall establish dates and places of hearings. Upon the request of either party or the arbitrator, the board shall issue subpoenas. Not less than 14 calendar days prior to the date of the hearing, each party shall submit to the other party a written last best offer package on all unresolved mandatory subjects, and neither party may change the last best offer package unless pursuant to stipulation of the parties or as otherwise provided in this subsection. The date set for the hearing may thereafter be changed only for compelling reasons or by mutual consent of the parties. If either party provides notice of a change in its position within 24 hours of the 14-day deadline, the other party will be allowed an additional 24 hours to modify its position. The arbitrator may administer oaths and shall afford all parties full opportunity to examine and cross-examine all witnesses and to present any evidence pertinent to the dispute.

(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties' last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to paragraphs (b) to (h) of this subsection as follows:

(a) The interest and welfare of the public.

(b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.

(c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided.

(d) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this paragraph, “comparable” is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of this paragraph, the following additional definitions of “comparable” apply in the situations described as follows:

(A) For any city with a population of more than 325,000, “comparable” includes comparison to out-of-state cities of the same or similar size;

(B) For counties with a population of more than 400,000, “comparable” includes comparison to out-of-state counties of the same or similar size; and

(C) For the State of Oregon, “comparable” includes comparison to other states.

(f) The CPI-All Cities Index, commonly known as the cost of living.

(g) The stipulations of the parties.

(h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors, if in the judgment of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence for an award.

(5) Not more than 30 days after the conclusion of the hearings or such further additional periods to which the parties may agree, the arbitrator shall select only one of the last best offer packages submitted by the parties and shall promulgate written findings along with an opinion and order. The opinion and order shall be served on the parties and the board. Service may be personal or by registered or certified mail. The findings, opinions and order shall be based on the criteria prescribed in subsection (4) of this section.

(6) The cost of arbitration shall be borne equally by the parties involved in the dispute.

243.746.

(1) In carrying out the arbitration procedures authorized in ORS 243.712 (2)(e), 243.726 (3)(c) and 243.742, the public employer and the exclusive representative may select their own arbitrator.

(2) Where the parties have not selected their own arbitrator within five days after notification by the Employment Relations Board that arbitration is to be initiated, the board shall submit to the parties a list of seven qualified, disinterested, unbiased persons. A list of Oregon interest arbitrations and fact-finders for which each person has issued an award shall be included. Each party shall alternately strike three names from the list. The order of striking shall be determined by lot. The remaining individual shall be designated the “arbitrator”:

(a) When the parties have not designated the arbitrator and notified the board of their choice within five days after receipt of the list, the board shall appoint the arbitrator from the list. However, if one of the parties strikes the names as prescribed in this subsection and the other party fails to do so, the board shall appoint the arbitrator only from the names remaining on the list.

(b) The concerns regarding the bias and qualifications of the person designated by lot or by appointment may be challenged by a petition filed directly with the board. A hearing shall be held by the board within 10 days of filing of the petition and the board shall issue a final and binding decision regarding the person’s neutrality within 10 days of the hearing.

(3) The arbitrator shall establish dates and places of hearings. Upon the request of either

party or the arbitrator, the board shall issue subpoenas. Not less than 14 calendar days prior to the date of the hearing, each party shall submit to the other party a written last best offer package on all unresolved mandatory subjects, and neither party may change the last best offer package unless pursuant to stipulation of the parties or as otherwise provided in this subsection. The date set for the hearing may thereafter be changed only for compelling reasons or by mutual consent of the parties. If either party provides notice of a change in its position within 24 hours of the 14-day deadline, the other party will be allowed an additional 24 hours to modify its position. The arbitrator may administer oaths and shall afford all parties full opportunity to examine and cross-examine all witnesses and to present any evidence pertinent to the dispute.

(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties' last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to paragraphs (b) to (h) of this subsection as follows:

(a) The interest and welfare of the public.

(b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.

(c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided.

(d) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this paragraph, "comparable" is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of this paragraph, the following additional definitions of "comparable" apply in the situations described as follows:

(A) For any city with a population of more than 325,000, "comparable" includes comparison to out-of-state cities of the same or similar size;

(B) For counties with a population of more than 400,000, "comparable" includes comparison to out-of-state counties of the same or similar size;

(C) Except as otherwise provided in subparagraph (D) of this paragraph, for the State of Oregon, "comparable" includes comparison to other states; and

(D) For the Department of State Police troopers, "comparable" includes the base pay for city police officers employed by the five most populous cities in this state.

(f) The CPI-All Cities Index, commonly known as the cost of living.

(g) The stipulations of the parties.

(h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors, if in the judgment of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence for an award.

(5) Not more than 30 days after the conclusion of the hearings or such further additional pe-

riods to which the parties may agree, the arbitrator shall select only one of the last best offer packages submitted by the parties and shall promulgate written findings along with an opinion and order. The opinion and order shall be served on the parties and the board. Service may be personal or by registered or certified mail. The findings, opinions and order shall be based on the criteria prescribed in subsection (4) of this section.

(6) The cost of arbitration shall be borne equally by the parties involved in the dispute.

243.752 Arbitration decision final; enforcement; effective date of compensation increases; modifying award.

(1) A majority decision of the arbitration panel, under ORS 243.706, 243.726, 243.736, 243.742 and 243.746, if supported by competent, material and substantial evidence on the whole record, based upon the factors set forth in ORS 243.746 (4), shall be final and binding upon the parties. Refusal or failure to comply with any provision of a final and binding arbitration award is an unfair labor practice. Any order issued by the Employment Relations Board pursuant to this section may be enforced at the instance of either party or the board in the circuit court for the county in which the dispute arose.

(2) The arbitration panel may award increases retroactively to the first day after the expiration of the immediately preceding collective bargaining agreement. At any time the parties, by stipulation, may amend or modify an award of arbitration.

243.756 Employment conditions during arbitration. During the pendency of arbitration proceedings that occur after the expiration of a previous collective bargaining agreement, all wages and benefits shall remain frozen at the level last in effect before the agreement expired, except that no public employer shall be required to increase contributions for insurance premiums unless the expiring collective bargaining agreement provides otherwise. Merit step and longevity step pay increases shall be part of the status quo unless the expiring collective bargaining agreement expressly provides otherwise.

243.762 Alternative arbitration procedure under collective bargaining agreement. Nothing in ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290 is intended to prohibit a public employer and the exclusive representative of its employees from entering into a collective bargaining agreement which provides for a compulsory arbitration procedure which is substantially equivalent to ORS 243.742 to 243.756.

243.766 Board duties in administration of collective bargaining laws; rules. The Employment Relations Board shall:

(1) Establish procedures for, investigate and resolve any disputes concerning the designation of an appropriate bargaining unit.

(2) Establish procedures for, resolve disputes with respect to, and supervise the conduct of elections for the determination of employee representation.

(3) Conduct proceedings on complaints of unfair labor practices by employers, employees and labor organizations and take such actions with respect thereto as it deems necessary and proper.

(4) Petition the appropriate circuit court for enforcement of any order issued by the board pursuant to ORS 243.650 to 243.782.

(5) Hold such hearings and make such inquiries as it deems necessary to carry out properly its functions and powers, and for the purpose of such hearings and inquiries, administer oaths and affirmations, examine witnesses and documents and issue subpoenas.

(6) Conduct studies on problems relating to public employment relations and make recommendations with respect thereto to the legislative bodies; request information and data from state and county departments and agencies and labor organizations necessary to carry out its functions and responsibilities; make available to public employers, labor organizations, mediators, members of fact-finding boards,

arbitrators and other concerned parties statistical data relating to wages, benefits, and employment practices in public and private employment to assist them in resolving issues in negotiation.

(7) Adopt rules relative to the exercise of its powers and authority and to govern the proceedings before it in accordance with ORS chapter 183.

243.772 Effect of collective bargaining laws on local charters and ordinances. Any provisions of local charters and ordinances adopted pursuant thereto in existence on October 5, 1973, and not in conflict with the rights and duties established in ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290 may remain in full force and effect after the Employment Relations Board has determined that no conflict exists.

243.776 Rights and responsibilities of public employees. The rights and responsibilities prescribed for state officers and employees in ORS 292.055 shall accrue to employees of all public employers.

243.778 Student representation when bargaining unit includes higher education faculty; duties of student representatives; confidentiality requirements.

(1) When an appropriate bargaining unit includes members of the faculty of an institution of higher education, the duly organized and recognized entity of student government at that institution may designate three representatives to meet and confer with the public employer of those members of the faculty and the exclusive representative of that appropriate bargaining unit prior to collective bargaining.

(2) During the course of collective bargaining between the public employer and the exclusive representative described in subsection (1) of this section, the representatives of student government designated under subsection (1) of this section shall:

(a) Be allowed to attend and observe all meetings between the public employer and the exclusive representative at which collective bargaining occurs;

(b) Have access to all written documents pertaining to the collective bargaining negotiations exchanged by the public employer and the exclusive representative, including copies of any prepared written transcripts of the bargaining session;

(c) Be allowed to comment in good faith during the bargaining sessions upon matters under consideration; and

(d) Be allowed to meet and confer with the exclusive representative and the public employer regarding the terms of an agreement between them prior to the execution of a written contract incorporating that agreement.

(3) Rules regarding confidentiality and release of information shall apply to student representatives in the same manner as employer and employee bargaining unit representatives.

(4) As used in this section:

(a) "Institution of higher education" means an institution under the control of the State Board of Higher Education.

(b) "Meet and confer" means the performance of the mutual obligation of the representatives of student government designated under subsection (1) of this section, the exclusive representative and the public employer, or any two of them, to meet at the request of one of them at reasonable times at a place convenient to all to conduct in good faith an interchange of views concerning the duties of each under this section, employment relations of the faculty, the negotiation of an agreement and the execution of a written agreement.

243.782 Representation by counsel authorized.

(1) For purposes of proceedings commenced pursuant to ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290, a person may be represented by counsel or any other agent authorized by such person.

(2) As used in subsection (1) of this section, “person” means any individual, a labor organization or a public employer.

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244.010 Policy.

(1) The Legislative Assembly declares that service as a public official is a public trust and that, as one safeguard for that trust, the people require all public officials to comply with the applicable provisions of this chapter.

(2) The Legislative Assembly recognizes and values the work of all public officials, whether elected or appointed.

(3) The Legislative Assembly recognizes that many public officials are volunteers and serve without compensation.

(4) 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.

(5) The Legislative Assembly recognizes that public officials should put loyalty to the highest ethical standards above loyalty to government, persons, political party or private enterprise.

(6) The Legislative Assembly recognizes that public officials should not make private promises that are binding upon the duties of a public official, because a public official has no private word that can be binding on public duty.

(7) The Legislative Assembly recognizes that public officials should expose corruption wherever discovered.

(8) The Legislative Assembly recognizes that public officials should uphold the principles described in this section, ever conscious of the public's trust.

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

(1) "Actual 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 the person's relative or any business with which the person or a relative of the person is associated unless the pecuniary benefit or detriment arises out of circumstances described in subsection (12) of this section.

(2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, fran-

chise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity.

(3) “Business with which the person is associated” means:

(a) Any private business or closely held corporation of which the person or the person’s relative is a director, officer, owner or employee, or agent or any private business or closely held corporation in which the person or the person’s relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding calendar year;

(b) Any publicly held corporation in which the person or the person’s relative owns or has owned \$100,000 or more in stock or another form of equity interest, stock options or debt instruments at any point in the preceding calendar year;

(c) Any publicly held corporation of which the person or the person’s relative is a director or officer; or

(d) For public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060 (3).

(4) “Candidate” means an individual for whom a declaration of candidacy, nominating petition or certificate of nomination to public office has been filed or whose name is printed on a ballot or is expected to be or has been presented, with the individual’s consent, for nomination or election to public office.

(5) “Development commission” means any entity that 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) (a) “Gift” means something of economic value given to a public official, a candidate or a relative or member of the household of the public official or candidate:

(A) 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 or candidates or the relatives or members of the household of public officials or candidates on the same terms and conditions; or

(B) For valuable consideration less than that required from others who are not public officials or candidates.

(b) “Gift” does not mean:

(A) Contributions as defined in ORS 260.005.

(B) Gifts from relatives or members of the household of the public official or candidate.

(C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item, with a resale value reasonably expected to be less than \$25.

(D) Informational or program material, publications or subscriptions related to the recipient’s performance of official duties.

(E) Admission provided to or the cost of food or beverage consumed by a public official, or a member of the household or staff of the public official when accompanying the public official, at a reception, meal or meeting held by an organization when the public official represents state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(F) Reasonable expenses paid by any unit of the federal government, a state or local government, a Native American tribe that is recognized by federal law or formally acknowledged by a state, a membership organization to which a public body as defined in ORS 174.109 pays membership dues or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the public official is scheduled to deliver a speech, make a presentation, participate on a panel or represent state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117.

(G) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the public official accompanying the public official, a member of the household of the public official accompanying the public official or a staff member of the public official accompanying the public official, when the public official is representing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

(i) On an officially sanctioned trade-promotion or fact-finding mission; or

(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

(I) Food or beverage consumed by a public official acting in an official capacity:

(i) In association with the review, approval, execution of documents or closing of a borrowing, investment or other financial transaction, including any business agreement between state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

(ii) While engaged in due diligence research or presentations by the office of the State Treasurer related to an existing or proposed investment or borrowing; or

(iii) While engaged in a meeting of an advisory, governance or policy-making body of a corporation, partnership or other entity in which the office of the State Treasurer has invested moneys.

(J) Waiver or discount of registration expenses or materials provided to a public official or candidate at a continuing education event that the public official or candidate may attend to satisfy a professional licensing requirement.

(K) Expenses provided by one public official to another public official for travel inside this state to or from an event that bears a relationship to the receiving public official's office and at which the official participates in an official capacity.

(L) Food or beverage consumed by a public official or candidate at a reception where the food or beverage is provided as an incidental part of the reception and no cost is placed on the food or beverage.

(M) Entertainment provided to a public official or candidate or a relative or member of the household of the public official or candidate that is incidental to the main purpose of another event.

(N) Entertainment provided to a public official or a relative or member of the household of the public official where the public official is acting in an official capacity while represent-

ing state government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special government body as defined in ORS 174.117 for a ceremonial purpose.

(O) Anything of economic value offered to or solicited or received by a public official or candidate, or a relative or member of the household of the public official or candidate:

(i) As part of the usual and customary practice of the person's private business, or the person's employment or position as a volunteer with a private business, corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or other legal entity operated for economic value; and

(ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.

(P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.

(7) "Honorarium" 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.

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

(9) "Legislative or administrative interest" means an economic interest, distinct from that of the general public, in:

(a) Any matter subject to the decision or vote of the public official acting in the public official's capacity as a public official; or

(b) Any matter that would be subject to the decision or vote of the candidate who, if elected, would be acting in the capacity of a public official.

(10) "Member of the household" means any person who resides with the public official or candidate.

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

(12) "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 could be to the private pecuniary benefit or detriment of the person or the person's relative, or a business with which the person or the person's relative 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 the person's relative or business with which the person or the person's relative is associated, is a member or is engaged.

(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.

(13) "Public office" has the meaning given that term in ORS 260.005.

(14) "Public official" means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent, irrespective of whether the person

is compensated for the services.

(15) “Relative” means:

- (a) The spouse of the public official or candidate;
- (b) Any children of the public official or of the public official’s spouse;
- (c) Any children of the candidate or of the candidate’s spouse;
- (d) Siblings, spouses of siblings or parents of the public official or of the public official’s spouse;
- (e) Siblings, spouses of siblings or parents of the candidate or of the candidate’s spouse;
- (f) Any individual for whom the public official or candidate has a legal support obligation;
- (g) Any individual for whom the public official provides benefits arising from the public official’s public employment or from whom the public official receives benefits arising from that individual’s employment; or
- (h) Any individual from whom the candidate receives benefits arising from that individual’s employment.

(16) “Statement of economic interest” means a statement as described by ORS 244.060 or 244.070.

(17) “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.

244.025 Gift limit.

(1) During a calendar year, a public official, a candidate or a relative or member of the household of the public official or candidate may not solicit or receive, directly or indirectly, any gift or gifts with an aggregate value in excess of \$50 from any single source that could reasonably be known to have a legislative or administrative interest.

(2) During a calendar year, a person who has a legislative or administrative interest may not offer to the public official or a relative or member of the household of the public official any gift or gifts with an aggregate value in excess of \$50.

(3) During a calendar year, a person who has a legislative or administrative interest may not offer to the candidate or a relative or member of the household of the candidate any gift or gifts with an aggregate value in excess of \$50.

(4) This section does not apply to public officials subject to the Oregon Code of Judicial Conduct.

244.040 Prohibited use of official position or office; exceptions; other prohibited actions.

(1) Except as provided in subsection (2) of this section, a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official’s holding of the official position or office.

(2) Subsection (1) of this section does not apply to:

- (a) Any part of an official compensation package as determined by the public body

that the public official serves.

(b) The receipt by a public official or a relative or member of the household of the public official of an honorarium or any other item allowed under ORS 244.042.

(c) Reimbursement of expenses.

(d) An unsolicited award for professional achievement.

(e) Gifts that do not exceed the limits specified in ORS 244.025 received by a public official or a relative or member of the household of the public official from a source that could reasonably be known to have a legislative or administrative interest.

(f) Gifts received by a public official or a relative or member of the household of the public official from a source that could not reasonably be known to have a legislative or administrative interest.

(g) The receipt by a public official or a relative or member of the household of the public official of any item, regardless of value, that is expressly excluded from the definition of “gift” in ORS 244.020.

(h) Contributions made to a legal expense trust fund established under ORS 244.209 for the benefit of the public official.

(3) A public official may not solicit or receive, either directly or indirectly, and a person may not offer or give to any public official any pledge or promise of future employment, based on any understanding that the vote, official action or judgment of the public official would be influenced by the pledge or promise.

(4) A public official may not attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of holding position as a public official or activities of the public official.

(5) A person who has ceased to be a public official may not attempt to further or further the personal gain of any person through the use of confidential information gained in the course of or by reason of holding position as a public official or the activities of the person as a public official.

(6) A person may not attempt to represent or 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.

(7) The provisions of this section apply regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed under ORS 244.120.

244.042 Honoraria.

(1) Except as provided in subsection (3) of this section, a public official may not solicit or receive, whether directly or indirectly, honoraria for the public official or any member of the household of the public official if the honoraria are solicited or received in connection with the official duties of the public official.

(2) Except as provided in subsection (3) of this section, a candidate may not solicit or receive, whether directly or indirectly, honoraria for the candidate or any member of the household of the candidate if the honoraria are solicited or received in connection with the official duties of the public office for which the person is a candidate.

(3) This section does not prohibit:

(a) The solicitation or receipt of an honorarium or a certificate, plaque, commemorative token or other item with a value of \$50 or less; or

(b) The solicitation or receipt of an honorarium for services performed in relation to the private profession, occupation, avocation or expertise of the public official or candidate.

244.045 Regulation of subsequent employment of public officials; lobbying by former members of Legislative Assembly.

(1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of Finance and Corporate Securities, the Administrator of the Insurance Division, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery shall not:

(a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b) 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.

(2) A person who has been a Deputy Attorney General or an assistant attorney general shall not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

(3) A person who has been the State Treasurer or the Chief Deputy State Treasurer shall not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least \$25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(4) A public official who as part of the official's duties invested public funds shall not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

(5) (a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule shall not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain

related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land.

(6) A person who has been a member of the Legislative Assembly may not receive money or any other consideration for lobbying as defined in ORS 171.725 performed during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly that begins after the date the person ceases to be a member of the Legislative Assembly.

Sec. 15b. (1) For purposes of ORS 244.045 (6), if a special session of the Legislative Assembly is held in calendar year 2008 or 2010, the first special session held in that calendar year is considered a regular session of the Legislative Assembly.

244.047 Financial interest in public contract.

(1) As used in this section:

(a) "Public body" has the meaning given that term in ORS 174.109.

(b) "Public contract" has the meaning given that term in ORS 279A.010.

(2) Except as provided in subsection (4) of this section, a person who ceases to hold a position as a public official may not have a direct beneficial financial interest in a public contract described in subsection (3) of this section for two years after the date the contract was authorized.

(3) Subsection (2) of this section applies to a public contract that was authorized by:

(a) The person acting in the capacity of a public official; or

(b) A board, commission, council, bureau, committee or other governing body of a public body of which the person was a member when the contract was authorized.

(4) Subsection (2) of this section does not apply to a person who was a member of a board, commission, council, bureau, committee or other governing body of a public body when the contract was authorized, but who did not participate in the authorization of the contract.

244.050 Persons required to file statement of economic interest; filing deadline.

(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 any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public 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 Oregon University System 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 Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

(K) Director of the Department of Consumer and Business Services.

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans' Affairs.

(U) Executive director of Oregon Government Ethics Commission.

(V) Director of the State Department of Energy.

- (W) Director and each assistant director of the Oregon State Lottery.
- (X) Director of the Department of Corrections.
- (Y) Director of the Oregon Department of Aviation.
- (Z) Executive director of the Oregon Criminal Justice Commission.
- (AA) Director of the Oregon Business Development Department.
- (BB) Director of the Office of Emergency Management.
- (CC) Director of the Employment Department.
- (DD) Chief of staff for the Governor.
- (EE) Administrator of the Office for Oregon Health Policy and Research.
- (FF) Director of the Housing and Community Services Department.
- (GG) State Court Administrator.
- (HH) Director of the Department of Land Conservation and Development.
- (II) Board chairperson of the Land Use Board of Appeals.
- (JJ) State Marine Director.
- (KK) Executive director of the Oregon Racing Commission.
- (LL) State Parks and Recreation Director.
- (MM) Public defense services executive director.
- (NN) Chairperson of the Public Employees' Benefit Board.
- (OO) Director of the Department of Public Safety Standards and Training.
- (PP) Chairperson of the Oregon Student Assistance Commission.
- (QQ) Executive director of the Oregon Watershed Enhancement Board.
- (RR) Director of the Oregon Youth Authority.
- (SS) Director of the Oregon Health Authority.

personnel.

- (h) Any assistant in the Governor's office other than personal secretaries and clerical personnel.
- (i) Every elected city or county official.
- (j) Every member of a city or county planning, zoning or development commission.
- (k) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.
- (l) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- (m) Every member of a governing body of a metropolitan service district and the executive officer thereof.
- (n) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (o) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.

- (p) Every member of the following state boards and commissions:
- (A) Board of Geologic and Mineral Industries.
 - (B) Oregon Business Development Commission.
 - (C) State Board of Education.
 - (D) Environmental Quality Commission.
 - (E) Fish and Wildlife Commission of the State of Oregon.
 - (F) State Board of Forestry.
 - (G) Oregon Government Ethics Commission.
 - (H) Oregon Health Policy Board.
 - (I) State Board of Higher Education.
 - (J) Oregon Investment Council.
 - (K) Land Conservation and Development Commission.
 - (L) Oregon Liquor Control Commission.
 - (M) Oregon Short Term Fund Board.
 - (N) State Marine Board.
 - (O) Mass transit district boards.
 - (P) Energy Facility Siting Council.
 - (Q) Board of Commissioners of the Port of Portland.
 - (R) Employment Relations Board.
 - (S) Public Employees Retirement Board.
 - (T) Oregon Racing Commission.
 - (U) Oregon Transportation Commission.
 - (V) Wage and Hour Commission.
 - (W) Water Resources Commission.
 - (X) Workers' Compensation Board.
 - (Y) Oregon Facilities Authority.
 - (Z) Oregon State Lottery Commission.
 - (AA) Pacific Northwest Electric Power and Conservation Planning Council.
 - (BB) Columbia River Gorge Commission.
 - (CC) Oregon Health and Science University Board of Directors.
 - (DD) Capitol Planning Commission.
- (q) The following officers of the State Treasurer:
- (A) Chief Deputy State Treasurer.
 - (B) Chief of staff for the office of the State Treasurer.
 - (C) Director of the Investment Division.
- (r) Every member of the board of commissioners of a port governed by ORS

777.005 to 777.725 or 777.915 to 777.953.

(s) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(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 Oregon Government Ethics 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 deadline for the primary election, each candidate 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 deadline for the general election, each candidate described in subsection (1) of this section who was not a candidate in the preceding primary election, or who was nominated for public office described in subsection (1) of this section at the preceding primary election by write-in votes, shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (4) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15. Subsections (1) to (4) of this section also apply to persons who do not become candidates until 30 days after the filing deadline for the statewide general election.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

244.055 Additional reporting requirements for State Treasury; review; confidentiality.

(1) In addition to the statement required by ORS 244.050, the State Treasurer and any person listed under ORS 244.050 (1)(q) and this subsection shall file quarterly at a time fixed by the State Treasurer a trading statement listing all stocks, bonds and other types of securities purchased or sold during the preceding quarter:

- (a) Directors of the Cash Management Division and the Debt Management Division.
- (b) Equities, fixed income, short term fund, real estate, equities real estate and commercial and mortgage real estate investment officers and assistant investment officers.
- (c) Fixed income and short term fund investment analysts.

(2) The statement required by subsection (1) of this section shall be filed for review with the State Treasurer, the Attorney General and the Division of Audits of the office of the Secretary of State. The content of the statement is confidential.

(3) If the State Treasurer or the Chief Deputy State Treasurer determines that a conflict of interest exists for an officer or employee, the State Treasurer shall subject the person to appropriate discipline, including dismissal or termination of the contract, or both, pursuant to rule. If the State Treasurer has cause to believe that a violation of this chapter has occurred, the State Treasurer shall file a complaint with the Oregon Government Ethics Commission under ORS 244.260.

(4) If the State Treasurer fails to act on an apparent conflict of interest under subsection (3) of this section or if the statement of the State Treasurer or the Chief Deputy State Treasurer appears to contain a conflict of interest, the Director of the Division of Audits shall report the failure or apparent conflict to the Attorney General, who may file a complaint with the commission.

244.060 Form of statement of economic interest; contents. The statement of economic interest

filed under ORS 244.050 shall be on a form prescribed by the Oregon Government Ethics Commission. The public official or candidate filing the statement shall supply the information required by this section and ORS 244.090, as follows:

(1) The names of all positions as officer of a business and business directorships held by the public official or candidate or a member of the household of the public official or candidate during the preceding calendar year, and the principal address and a brief description of each business.

(2) All names under which the public official or candidate and members of the household of the public official or candidate do business and the principal address and a brief description of each business.

(3) The names, principal addresses and brief descriptions of the sources of income received during the preceding calendar year by the public official or candidate or a member of the household of the public official or candidate that produce 10 percent or more of the total annual household income.

(4) (a) A list of all real property in which the public official or candidate 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 holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

(b) This subsection does not require the listing of the principal residence of the public official or candidate.

(5) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a convention, mission, trip or other meeting described in ORS 244.020 (6)(b)(F), including the name and address of the organization, unit of government, tribe or corporation paying the expenses, the nature of the event and the date and amount of the expense.

(6) All expenses with an aggregate value exceeding \$50 received by the public official during the preceding calendar year when participating in a mission, negotiations or economic development activities described in ORS 244.020 (6)(b)(H), including the name and address of the person paying the expenses, the nature of the event and the date and amount of the expenditure.

(7) All honoraria and other items allowed under ORS 244.042 with a value exceeding \$15 that are received by the public official, candidate or member of the household of the public official or candidate during the preceding calendar year, the provider of each honorarium or item and the date and time of the event for which the honorarium or item was received.

(8) The name, principal address and brief description of each source of income exceeding an aggregate amount of \$1,000, whether or not taxable, received by the public official or candidate, or a member of the household of the public official or candidate, during the preceding calendar year, if the source of that income is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority.

244.070 Additional statement of economic interest. A public official or candidate shall report the following additional economic interest for the preceding calendar year only if the source of that interest is derived from an individual or business that has a legislative or administrative interest or that has been doing business, does business or could reasonably be expected to do business with the governmental agency of which the public official holds, or the candidate if elected would hold, an official position or over which the public official exercises, or the candidate if elected would exercise, any authority:

(1) Each person to whom the public official or candidate 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 on money owed and the date of the loan, except for debts owed to any federal or state regulated financial institution or retail contracts.

(2) The name, principal address and brief description of the nature of each business in which the public official or candidate 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.

(3) 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.

244.090 Report on association with compensated lobbyist.

(1) Each public official or candidate required to file a statement of economic interest under this chapter shall include on the statement the name of 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.

(2) Subsection (1) of this section does not apply if the only relationship between the public official or candidate and the lobbyist is that the public official or candidate and lobbyist hold stock in the same publicly traded corporation.

(3) As used in this section, "lobbyist" has the meaning given that term in ORS 171.725.

244.100 Statements of expenses or honoraria provided to public official.

(1) Any organization, unit of government, tribe or corporation that provides a public official with expenses with an aggregate value exceeding \$50 for an event described in ORS 244.020 (6)(b)(F) shall notify the public official in writing of the amount of the expense. The organization, unit, tribe or corporation shall provide the notice to the public official within 10 days after the date the expenses are incurred.

(2) Any person that provides a public official or candidate, or a member of the household of the public official or candidate, with an honorarium or other item allowed under ORS 244.042 with a value exceeding \$15 shall notify the public official or candidate in writing of the value of the honorarium or other item. The person shall provide the notice to the public official or candidate within 10 days after the date of the event for which the honorarium or other item was received.

244.110 Statements subject to penalty for false swearing.

(1) Each statement of economic interest required to be filed under ORS 244.050, 244.060, 244.070 or 244.090, or by rule under ORS 244.290, and each trading statement required to be filed under ORS 244.055 shall be signed and certified as true by the person required to file it and shall contain a written declaration that the statement is made under the penalties of false swearing.

(2) A person may not sign and certify a statement under subsection (1) of this section if the person knows that the statement contains information that is false.

(3) Violation of subsection (2) of this section is punishable as false swearing under ORS 162.075.

244.115 Filing required for member of Congress or candidate; filing date.

(1) Each member of Congress from this state and each candidate for nomination or election to the office of United States Representative in Congress or United States Senator 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.

(2) The member or candidate shall file the information required under subsection (1) of this

section not later than 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 on the filing that the filing was not made with the commission by the member or candidate.

(3) All filings made under this section are public records available for public inspection.

244.120 Methods of handling conflicts; Legislative Assembly; judges; appointed officials; other elected officials or members of boards.

(1) Except as provided in subsection (2) of this section, when met with an actual or potential conflict of interest, a public official shall:

(a) 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 conflict before taking any action thereon in the capacity of a public official.

(b) 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.

(c) 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 conflict, and request that the appointing authority dispose of the matter giving rise to the 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) An elected public official, other than a member of the Legislative Assembly, or an appointed public official serving on a board or commission, shall:

(a) When met with a potential conflict of interest, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official; or

(b) When met with an actual conflict of interest, announce publicly the nature of the actual conflict and:

(A) Except as provided in subparagraph (B) of this paragraph, refrain from participating as a public official in any discussion or debate on the issue out of which the actual conflict arises or from voting on the issue.

(B) If any public official's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the actual conflict arises.

(3) Nothing in subsection (1) or (2) of this section requires any public official to announce a conflict of interest more than once on the occasion which the matter out of which the conflict arises is discussed or debated.

(4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.

244.130 Recording of notice of conflict; effect of failure to disclose conflict.

(1) When a public official gives notice of an actual or potential conflict of interest, the public body as defined in ORS 174.109 that the public official serves shall record the actual or potential conflict in the official records of the public body. In addition, a notice of the actual or potential conflict and how it was disposed of may in the discretion of the public body be provided to the Oregon Government Ethics Commission within a reasonable period of time.

(2) A 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 may not be voided by any court solely by reason of the failure of the public official to disclose an actual or potential conflict of interest.

244.135 Method of handling conflicts by planning commission members.

(1) A member of a city or county planning commission shall not participate in any commission proceeding or action in which any of the following has a direct or substantial financial interest:

(a) The member or the spouse, brother, sister, child, parent, father-in-law, mother-in-law of the member;

(b) Any business in which the member is then serving or has served within the previous two years; or

(c) Any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

(2) Any actual or potential interest shall be disclosed at the meeting of the commission where the action is being taken.

244.160 Filing of statement of economic interest by public official of political subdivision other than city or county.

(1) 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 with the Oregon Government Ethics Commission.

(2) The political subdivision shall file a copy of the resolution with the commission.

244.162 Information provided to persons required to file statement of economic interest.

(1) A person designated by a public body as defined in ORS 174.109 shall provide information explaining the requirements of ORS 244.050, 244.060, 244.070 and 244.090 to each newly elected or appointed public official serving the public body who is required to file a verified statement of economic interest under ORS 244.050. The information must be received by the public official either at the first meeting attended by the public official or before the public official takes the oath of office, whichever occurs first.

(2) At the time of fulfilling duties under subsection (1) of this section, the person designated by the public body shall provide to each newly elected or appointed public official serving the public body a copy of the statements and explanation provided to the public body under subsection (3) of this section.

(3) The Oregon Government Ethics Commission shall provide copies of the statements described in ORS 244.060, 244.070 and 244.090 and an explanation of the requirements of the law relating to the statements to each public body that is served by a public official who is required to file a statement described in ORS 244.060, 244.070 or 244.090.

(4) A newly elected or appointed public official serving a public body who is not informed of the filing requirements under ORS 244.050, 244.060, 244.070 and 244.090 and provided with a copy of the statements and explanation as required under this section before attending the first meeting or 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 later, without filing a verified statement of economic interest and without incurring a sanction or penalty that might otherwise be imposed for not filing.

244.165 Rules or policies of state agency or association of public bodies; commission approval; effect.

(1) For the purpose of protecting against violations of the provisions of this chapter, a state agency, as defined in ORS 183.750, or a statewide association of public bodies, as defined in ORS 174.109, may adopt rules or policies interpreting the provisions of this chapter. The rules or policies must be consistent with the provisions of this chapter. A state agency or a statewide association of public bodies may submit rules or policies adopted under this subsection to the Oregon Government Ethics Commission for review.

(2) Upon receiving rules or policies submitted under subsection (1) of this section, the commission shall review the rules and policies to determine whether the rules and policies are consistent with the provisions of this chapter. The commission, by a vote of a majority of the members of the commission, shall approve or reject the rules or policies. The commission shall notify the state agency or statewide association of public bodies in writing of the commission's approval or rejection. A written notice of rejection shall explain the reasons for the rejection.

(3) Unless the applicable rule or policy is amended or repealed by the state agency or the statewide association of public bodies, the commission may not impose a penalty under ORS 244.350 or 244.360 on a public official for any good faith action the official takes in compliance with a rule or policy that was adopted by the state agency that the official serves, or by a statewide association of which the public body that the official serves is a member, and approved by the commission under subsection (2) of this section.

244.175 Definitions for ORS 244.177 and 244.179. As used in ORS 244.177 and 244.179:

(1) "Governing body" has the meaning given that term in ORS 192.610.

(2) "Member of the household" means any person who resides with the public official.

(3) "Public body" has the meaning given that term in ORS 174.109.

(4) "Relative" means the spouse of the public official, any children of the public official or of the public official's spouse, and brothers, sisters, half brothers, half sisters, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, mothers-in-law, fathers-in-law, aunts, uncles, nieces, nephews, stepparents, stepchildren or parents of the public official or of the public official's spouse.

244.177 Employment of relative or member of household; exceptions.

(1) Except as provided in subsections (2) to (4) of this section:

(a) A public official may not appoint, employ or promote a relative or member of the household to, or discharge, fire or demote a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control, unless the public official complies with the conflict of interest requirements of this chapter.

(b) A public official may not participate as a public official in any interview, discussion or debate regarding the appointment, employment or promotion of a relative or member of the household to, or the discharge, firing or demotion of a relative or member of the household from, a position with the public body that the public official serves or over which the public official exercises jurisdiction or control. As used in this paragraph, "participate" does not include serving as a reference, providing a recommendation or performing other ministerial acts that are part of the normal job functions of the public official.

(2) A member of the Legislative Assembly may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position on the personal legislative staff of the member of the Legislative Assembly.

(3) (a) A public official may appoint, employ, promote, discharge, fire or demote, or advocate for the appointment, employment, promotion, discharge, firing or demotion of, a relative or member of the household to or from a position as an unpaid volunteer with the public body that the public official serves or over which the public official exercises jurisdiction or control.

(b) Paragraph (a) of this subsection does not apply to the appointment, employment, promotion, discharge, firing or demotion of a relative or member of the household to a position as an unpaid member of a governing body of the public body that the public official serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household described in paragraph (a) of this subsection

tion may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) This section does not prohibit a public body from appointing, employing, promoting, discharging, firing or demoting a person who is a relative or member of the household of a public official serving the public body.

244.179 Supervision of relative or member of household; exceptions.

(1) Notwithstanding ORS 659A.309 and except as provided in subsections (2) to (4) of this section, a public official acting in an official capacity may not directly supervise a person who is a relative or member of the household.

(2) A member of the Legislative Assembly may directly supervise a person who:

(a) Is a relative or member of the household; and

(b) Serves as a public official in a position on the personal legislative staff of the member of the Legislative Assembly.

(3) (a) A public official acting in an official capacity may directly supervise a person who is a relative or member of the household if the person serves as an unpaid volunteer.

(b) Paragraph (a) of this subsection does not apply to service by a person in a position as an unpaid member of a governing body that a public official of whom the person is a relative or member of the household serves or over which the public official exercises jurisdiction or control.

(c) A relative or member of the household serving as an unpaid volunteer described in paragraph (a) of this subsection may receive reimbursement of expenses provided in the ordinary course of business to similarly situated unpaid volunteers.

(4) A public body may adopt policies specifying when a public official acting in an official capacity may directly supervise a person who is a relative or member of the household.

244.205 Legal expense trust fund; establishment; eligible legal expenses.

(1) Subject to the authorization of the Oregon Government Ethics Commission as described in ORS 244.209, a public official may establish a legal expense trust fund if the public official incurs or reasonably expects to incur legal expenses described in subsection (2) of this section.

(2) Proceeds from the trust fund may be used by the public official to defray legal expenses incurred by the public official in any civil, criminal or other legal proceeding or investigation that relates to or arises from the course and scope of duties of the person as a public official. The legal expenses must be incurred in connection with:

(a) The issuance of a court's stalking protective order under ORS 30.866 or 163.738;

(b) The issuance of a citation under ORS 163.735;

(c) A criminal prosecution under ORS 163.732;

(d) A civil action under ORS 30.866; or

(e) Defending the public official in a proceeding or investigation brought or maintained by a public body as defined in ORS 174.109.

(3) Except as provided in subsection (2) of this section, a public official may not use proceeds from the trust fund for any personal use.

(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

(5) The provisions of ORS chapter 130 do not apply to a trust fund established under ORS

244.205 to 244.221.

244.207 Use of fund proceeds.

(1) The proceeds of a legal expense trust fund may be used to:

(a) Defray legal expenses described in ORS 244.205;

(b) Defray costs reasonably incurred in administering the trust fund, including but not limited to costs incident to the solicitation of funds; and

(c) Discharge any tax liabilities incurred as a result of the creation, operation or administration of the trust fund.

(2) The proceeds of a trust fund may also be used to defray or discharge expenses, costs or liabilities incurred before the fund was established if the expenses, costs or liabilities are related to the legal proceeding for which the fund was established.

244.209 Application to establish fund; commission review and authorization.

(1) A public official may apply to establish a legal expense trust fund by filing an application with the Oregon Government Ethics Commission. The application must contain:

(a) A copy of an executed trust agreement described in subsection (2) of this section;

(b) A sworn affidavit described in subsection (3) of this section signed by the public official; and

(c) A sworn affidavit described in subsection (4) of this section signed by the trustee.

(2) The trust agreement must contain the following:

(a) A provision incorporating by reference the provisions of ORS 244.205 to 244.221; and

(b) A designation of a trustee under ORS 244.211.

(3) The affidavit of the public official must state:

(a) The nature of the legal proceeding that requires establishment of the trust fund;

(b) That the public official will comply with the provisions of ORS 244.205 to 244.221; and

(c) That the public official is responsible for the proper administration of the trust fund.

(4) The affidavit of the trustee must state that the trustee:

(a) Has read and understands ORS 244.205 to 244.221; and

(b) Consents to administer the trust fund in compliance with ORS 244.205 to 244.221.

(5) Upon receiving an application under this section, the commission shall review the trust agreement, the affidavits and any supporting documents or instruments filed to determine whether the application meets the requirements of ORS 244.205 to 244.221. If the commission determines that the application meets the requirements of ORS 244.205 to 244.221, the commission shall grant written authorization to the public official to establish the trust fund.

(6) The commission shall review the quarterly statements required under ORS 244.217 and shall monitor the activities of each trust fund to ensure continued compliance with ORS 244.205 to 244.221.

(7) Unless subject to the attorney-client privilege, all documents required to be filed relating to the creation and administration of a trust fund are public records subject to disclosure as provided in

ORS 192.410 to 192.505.

(8) A public official may not establish a legal expense trust fund without receiving prior written authorization of the commission as described in this section.

(9) A public official may file an amendment to a trust agreement approved as part of a trust fund under this section. The commission shall approve the amendment if the commission determines the amendment meets the requirements of ORS 244.205 to 244.221.

244.211 Duties of trustee.

(1) The trustee of a legal expense trust fund is responsible for:

- (a) The receipt and deposit of contributions to the trust fund;
- (b) The authorization of expenditures and disbursements from the trust fund;
- (c) The filing of quarterly statements required under ORS 244.217; and
- (d) The performance of other tasks incident to the administration of the trust fund.

(2) The public official who establishes the trust fund may either serve as the public official's own trustee or may appoint and certify to the Oregon Government Ethics Commission the name and address of a trustee. Any default or violation by the trustee shall be conclusively considered a default or violation by the public official.

244.213 Contributions to fund.

(1) Except as provided in subsection (3) of this section, any person may contribute to a legal expense trust fund established under ORS 244.205 to 244.221.

(2) A person may make contributions of moneys to a legal expense trust fund in unlimited amounts. Pro bono legal assistance and other in-kind assistance may also be provided without limit and is considered a contribution subject to the reporting requirements of ORS 244.217.

(3) A political committee as defined in ORS 260.005 that is a principal campaign committee may not contribute to a legal expense trust fund.

244.215 Fund account.

(1) A trustee of a legal expense trust fund shall establish a single exclusive account in a financial institution, as defined in ORS 706.008. The financial institution must be located in this state and must ordinarily conduct business with the general public in this state.

(2) The trustee shall maintain the account in the name of the trust fund.

(3) All expenditures made by the trustee shall be drawn from the account and:

- (a) Issued on a check signed by the trustee; or
- (b) Paid using a debit card or other form of electronic transaction.

(4) A contribution received by a trustee shall be deposited into the account not later than seven calendar days after the date the contribution is received. This subsection does not apply to in-kind contributions received.

(5) This section does not prohibit the transfer of any amount deposited in the account into a certificate of deposit, stock fund or other investment instrument.

(6) The account may not include any public or private moneys or any moneys of any other person, other than contributions received by the trustee.

(7) A trustee shall retain a copy of each financial institution account statement from the account described in this section for not less than two years after the date the statement is issued by the finan-

cial institution.

244.217 Statement of contributions received and expenditures made.

(1) The trustee of a legal expense trust fund shall, according to the schedule described in subsection (3) of this section, file with the Oregon Government Ethics Commission a statement for the applicable reporting period showing contributions received by the trustee and expenditures made from the trust fund account established under ORS 244.215.

(2) Each statement shall list:

(a) The name and address of each person who contributed an aggregate amount of more than \$75, and the total amount contributed by that person;

(b) The total amount of contributions not listed under paragraph (a) of this subsection as a single item, but shall specify how those contributions were obtained;

(c) The amount and purpose of each expenditure and the name and address of each payee; and

(d) The name and address of any person contributing pro bono legal assistance and the fair market value of the assistance provided by the person.

(3) Statements required to be filed with the commission under this section shall be filed according to the schedule described in ORS 244.218.

(4) If no contributions are received and no expenditures made during the reporting period, the trustee shall file a statement indicating that no contributions were deposited and no expenditures were made.

(5) The trustee may amend a statement filed under this section without penalty if the amendment is filed with the commission not later than 30 days after the deadline for filing the statement.

244.218 Quarterly filing of statements. Statements required to be filed with the Oregon Government Ethics Commission under ORS 244.217 shall be filed in each calendar year:

(1) Not later than April 15, for the accounting period beginning January 1 and ending March 31;

(2) Not later than July 15, for the accounting period beginning April 1 and ending June 30;

(3) Not later than October 15, for the accounting period beginning July 1 and ending September 30; and

(4) Not later than January 15 of the following calendar year, for the accounting period beginning October 1 and ending December 31.

244.219 Termination of fund.

(1) A legal expense trust fund established under ORS 244.205 to 244.221 may be terminated by:

(a) The public official who established the trust fund;

(b) Subject to subsection (2) of this section, the terms of the trust agreement; or

(c) The Oregon Government Ethics Commission following a determination by the commission that a violation of any provision of this chapter has occurred in connection with the trust fund.

(2) A trust agreement may provide that a legal expense trust fund is terminated not later than six months following the completion of the legal proceeding for which the fund was established. Upon application of the public official who established the trust fund, the commission may extend the existence of the trust fund to a specified date if the commission determines that the public official has incurred legal ex-

penses that exceed the balance remaining in the fund. If the commission extends the existence of the trust fund, the trust fund terminates on the date the extension expires.

(3) Following termination of a legal expense trust fund, the trustee may not accept contributions to or make expenditures from the fund.

(4) Not later than 30 days after a trust fund is terminated, the trustee of the fund shall file with the commission a final report listing the totals of all contributions made to the fund and all expenditures made from the fund.

244.221 Disposition of moneys in terminated fund; distribution of award of attorney fees, costs or money judgment.

(1) Not later than 30 days after a legal expense trust fund is terminated, the trustee of the fund shall return any moneys remaining in the fund to contributors to the fund on a pro rata basis.

(2) If the legal proceeding for which the trust fund was established results in an award of attorney fees, costs or any other money judgment award to or in favor of the public official, amounts awarded shall be distributed in the following order:

(a) To pay outstanding legal expenses;

(b) To contributors to the trust fund on a pro rata basis; and

(c) To the public official or, if required by the trust agreement, to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

COMMISSION

244.250 Oregon Government Ethics Commission; appointment; term; quorum; compensation; legal counsel.

(1) The Oregon Government Ethics Commission is established, consisting of seven members. The appointment of a member of the commission is subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Members shall be appointed in the following manner:

(a) The Governor shall appoint four members 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, the leadership shall recommend another person.

(b) The Governor shall appoint three members without leadership recommendation. No more than two members appointed under this paragraph may be members of the same major political party.

(2) A person who holds any public office listed in ORS 244.050 (1) except as a member of the commission may not be appointed to the commission. No more than four members may be members of the same political party.

(3) The term of office of a member is four years. A member is not eligible to be appointed to more than one full term but may serve out an unexpired term. Vacancies shall be filled by the appointing authority for the unexpired term.

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

(5) A quorum consists of four members but a final decision may not be made without an affirmative vote of a majority of the members appointed to the commission.

(6) Members shall be entitled to compensation and expenses as provided in ORS 292.495.

(7) The commission may retain or appoint qualified legal counsel who must be a member of

the Oregon State Bar and who is responsible to the commission. The appointment of legal counsel under this subsection may be made only when the commission finds it is inappropriate and contrary to the public interest for the office of the Attorney General to represent concurrently more than one public official or agency in any matter before the commission because the representation:

- (a) Would create or tend to create a conflict of interest; and
- (b) Is not subject to ORS 180.230 or 180.235.

(8) The Attorney General may not represent before the commission any state public official who is the subject of any complaint or action of the commission at the commission's own instigation.

244.255 Commission funding.

(1) The Oregon Government Ethics Commission shall estimate in advance the expenses that it will incur during a biennium in carrying out the provisions of ORS 171.725 to 171.785 and 171.992 and this chapter. The commission shall also determine what percentage of the expenses should be borne by the following two groups of public bodies:

- (a) Public bodies in state government; and
- (b) Local governments, local service districts and special government bodies that are subject to the Municipal Audit Law.

(2) The commission shall charge each public body for the public body's share of the expenses described in subsection (1) of this section for the biennium. The amount to be charged each public body shall be determined as follows:

(a) The commission shall determine the rate to be charged public bodies in state government. The same rate shall be applied to each public body described in this paragraph. To determine the amount of the charge for each public body, the commission shall multiply the rate determined under this paragraph by the number of public officials serving the public body.

(b) The commission shall set the charge for local governments, local service districts and special government bodies that are subject to the Municipal Audit Law so that each local government, local service district or special government body described in this paragraph pays an amount of the total expenses for the group that bears the same proportion to the total expenses that the amount charged to the local government, local service district or special government body for the municipal audit fee under ORS 297.485 bears to the total amount assessed for the municipal audit fee.

(3) Each public body shall pay to the credit of the commission the charge described in this section as an administrative expense from funds or appropriations available to the public body in the same manner as other claims against the public body are paid.

(4) All moneys received by the commission under this section shall be credited to the Oregon Government Ethics Commission Account established under ORS 244.345.

(5) The commission shall adopt rules specifying the methods for calculating and collecting the rates and charges described in this section.

(6) As used in this section:

- (a) "Local government" and "local service district" have the meanings given those terms in ORS 174.116.
- (b) "Public body" has the meaning given that term in ORS 174.109.
- (c) "Public official," notwithstanding ORS 244.020 (14), means any person who, on the date the commission charges the public body under this section, is serving the public body as an officer or employee.

(d) “Special government body” has the meaning given that term in ORS 174.117.

(e) “State government” has the meaning given that term in ORS 174.111.

244.260 Complaint and adjudicatory process; confidentiality; Preliminary Review Phase; Investigatory Phase; possible actions by order; report of findings; contested case procedure; limitation on commission action.

(1) (a) Any person may file with the Oregon Government Ethics Commission a signed written complaint alleging that there has been a violation of any provision of this chapter or of any rule adopted by the commission under this chapter. The complaint shall state the person’s reason for believing that a violation occurred and include any evidence relating to the alleged violation.

(b) If at any time the commission has reason to believe that there has been a violation of a provision of this chapter or of a rule adopted by the commission under this chapter, the commission may proceed under this section on its own motion as if the commission had received a complaint.

(2) (a) Not later than two business days after receiving a complaint under this section, the commission shall notify the person who is the subject of the complaint.

(b) Before approving a motion to proceed under this section without a complaint, the commission shall provide notice to the person believed to have committed the violation of the time and place of the meeting at which the motion will be discussed. If the commission decides to proceed on its own motion, the commission shall give notice to the person not later than two business days after the motion is approved.

(c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of this subsection by mail and by telephone if the person can be reached by telephone. The notice must describe the nature of the alleged violation. The mailed notice must include copies of all materials submitted with a complaint. If the commission will consider a motion to proceed without a complaint, the notice must provide copies of all materials that the commission will consider at the hearing on the motion.

(d) Information that the commission considers before approving a motion to proceed on its own motion under this section and any correspondence regarding the motion or potential violation is confidential. Commission members and staff may not make any public comment or publicly disclose any materials relating to the motion pending the commission’s approval to proceed. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(3) After receiving a complaint or deciding to proceed on its own motion, the commission shall undertake action in the Preliminary Review Phase to determine whether there is cause to undertake an investigation. If the person who is the subject of the action is a member of the Legislative Assembly, the commission shall determine whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(4) (a) The Preliminary Review Phase begins on the date the complaint is filed or the date the commission decides to proceed on its own motion and ends on the date the commission determines there is cause to undertake an investigation, dismisses the complaint or rescinds its own motion. The Preliminary Review Phase may not exceed 135 days unless:

(A) A delay is stipulated to by both the person who is the subject of action under this section and the commission with the commission reserving a portion of the delay period to complete its actions; or

(B) A complaint is filed under this section with respect to a person who is a candidate for elective public office, the complaint is filed within 61 days before the date of an election at

which the person is a candidate for nomination or election and a delay is requested in writing by the candidate. If the candidate makes a request under this subparagraph, the Preliminary Review Phase must be completed not later than 135 days after the date of the first meeting of the commission that is held after the date of the election.

(b) During the Preliminary Review Phase, the commission may seek, solicit or otherwise obtain any books, papers, records, memoranda or other additional information, administer oaths and take depositions necessary to determine whether there is cause to undertake an investigation or whether the alleged violation involves conduct protected by section 9, Article IV of the Oregon Constitution.

(c) The Preliminary Review Phase is confidential. Commission members and staff may acknowledge receipt of a complaint but may not make any public comment or publicly disclose any materials relating to a case during the Preliminary Review Phase. A person who intentionally violates this paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as a result of a violation of this paragraph by a member of the commission or its staff may file a petition in a court of competent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty provided in this paragraph.

(d) At the conclusion of the Preliminary Review Phase, the commission shall conduct its deliberations in executive session. All case related materials and proceedings shall be open to the public after the commission makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion. Prior to the end of the Preliminary Review Phase, the executive director of the commission 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.

(e) The time limit imposed in this subsection and the commission's inquiry are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its inquiry.

(5) (a) If the commission determines that there is not cause to undertake an investigation or that the alleged violation of this chapter involves conduct protected by section 9, Article IV of the Oregon Constitution, the commission shall dismiss the complaint or rescind its motion and formally enter the dismissal or rescission in its records. The commission shall notify the person who is the subject of action under this section of the dismissal or rescission. After dismissal or rescission, the commission may not take further action involving the person unless a new and different complaint is filed or action on the commission's own motion is undertaken based on different conduct.

(b) If the commission makes a finding of cause to undertake an investigation, the commission shall undertake action in the Investigatory Phase. The commission shall notify the person who is the subject of the investigation, identify the issues to be examined and confine the investigation to those issues. If the commission finds reason to expand the investigation, the commission shall move to do so, record in its minutes the issues to be examined before expanding the scope of its investigation and formally notify the complainant, if any, and the person who is the subject of the investigation of the expansion and the scope of the investigation.

(6) (a) The Investigatory Phase begins on the date the commission makes a finding of cause to undertake an investigation and ends on the date the commission dismisses the complaint, rescinds its own motion, issues a settlement order, moves to commence a contested case proceeding or takes other action justified by the findings. The Investigatory Phase may not exceed 180 days unless a delay is stipulated to by both the person who is the subject of action under this section and the commission with the commis-

sion reserving a portion of the delay period to complete its actions.

(b) During the Investigatory Phase, the commission may seek 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 complete the investigation. If any person fails to comply with any subpoena issued under this paragraph or refuses to testify on any matters on which the person may be lawfully interrogated, the commission shall follow the procedure described in ORS 183.440 to compel compliance.

(c) The time limit imposed in this subsection and the commission's investigation are suspended if:

(A) There is a pending criminal investigation that relates to the issues arising out of the underlying facts or conduct at issue in the matter before the commission unless the parties stipulate otherwise; or

(B) A court has enjoined the commission from continuing its investigation.

(d) At the end of the Investigatory Phase, the commission shall take action by order. The action may include:

(A) Dismissal, with or without comment;

(B) Continuation of the investigation for a period not to exceed 30 days for the purpose of additional fact-finding;

(C) Moving to a contested case proceeding;

(D) Entering into a negotiated settlement; or

(E) Taking other appropriate action if justified by the findings.

(e) The commission may move to a contested case proceeding if the commission determines that the information presented to the commission is sufficient to make a preliminary finding of a violation of any provision of this chapter or of any rule adopted by the commission under this chapter.

(7) A person conducting any inquiry or investigation under this section shall:

(a) Conduct the inquiry or investigation in an impartial and objective manner; and

(b) Provide to the commission all favorable and unfavorable information the person collects.

(8) The commission shall report the findings of any inquiry or investigation in an impartial manner. The commission shall report both favorable and unfavorable findings and shall make the findings available to:

(a) The person who is the subject of the inquiry or investigation;

(b) The appointing authority, if any;

(c) The Attorney General, if the findings relate to a state public official;

(d) The appropriate district attorney, if the findings relate to a local public official; and

(e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge.

(9) Hearings conducted under this chapter must be held before an administrative law judge assigned from the Office of Administrative Hearings established under ORS 183.605. The procedure shall be that for a contested case under ORS chapter 183.

(10) The Oregon Government Ethics Commission may not inquire into or investigate any conduct that occurred more than four years before a complaint is filed or a motion is approved under subsection (1) of this section.

(11) This section does not prevent the commission and the person alleged to have violated any provision of this chapter or any rule adopted by the commission under this chapter from stipulating to a finding of fact concerning the violation and consenting to an appropriate penalty. The commission shall enter an order based on the stipulation and consent.

(12) At any time during proceedings conducted under this section, the commission may enter into a negotiated settlement with the person who is the subject of action under this section.

(13) As used in this section:

(a) "Cause" means that there is a substantial, objective basis for believing that an offense or violation may have been committed and the person who is the subject of an inquiry may have committed the offense or violation.

(b) "Pending" means that a prosecuting attorney is either actively investigating the factual basis of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument, has obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of negotiating a plea.

244.270 Findings as grounds for removal; notice to public bodies.

(1) If the Oregon Government Ethics Commission finds that an appointed public official has violated any provision of this chapter or any rule adopted under this chapter, the finding is 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.

(2) If the commission finds that a public official has violated any provision of this chapter or any rule adopted under this chapter, the commission shall notify the public body, as defined in ORS 174.109, that the public official serves. The notice shall describe the violation and any action taken by the commission. The commission shall provide the notice not later than 10 business days after the date the commission takes final action against the public official.

244.280 Commission advisory opinions; effect of reliance on opinion.

(1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

(2) Not later than 60 days after the date the commission receives the written request for a commission advisory opinion, the commission shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The commission may ask the person requesting the advisory opinion to supply additional information the commission considers necessary to render the opinion. The commission, by vote of a majority of the members of the commission, may extend the 60-day deadline by one period not to exceed 60 days.

(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission may not impose a penalty under ORS 244.350 or 244.360 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission may impose a penalty under ORS 244.350 or 244.360 on the person who requested the advisory opinion if the commission determines that the person omitted or misstated material facts in making the request.

244.282 Executive director and staff advisory opinions; effect of reliance on opinion.

(1) Upon the written request of any person, the executive director of the Oregon Government Ethics Commission may issue and publish written staff advisory opinions on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance.

(2) Not later than 30 days after the date the executive director receives the written request for a staff advisory opinion, the executive director shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The executive director may ask the person requesting the advisory opinion to supply additional information the executive director considers necessary to render the opinion. The executive director may extend the 30-day deadline by one period not to exceed 30 days. The executive director shall clearly designate an opinion issued under this section as a staff advisory opinion.

(3) (a) Except as provided in paragraph (b) of this subsection, unless the staff advisory opinion is revised or revoked, the commission may only issue a written letter of reprimand, explanation or education for any good faith action a person takes in reliance on a staff advisory opinion issued under this section.

(b) The commission may impose, for an action that is subject to a penalty and that is taken in reliance on a staff advisory opinion issued under this section, a penalty under ORS 244.350 or 244.360 on the person who requested the opinion if the commission determines that the person omitted or misstated material facts in making the request.

(4) At each regular meeting of the commission, the executive director shall report to the commission on all staff advisory opinions issued since the last regular meeting of the commission. The commission on its own motion may issue a commission advisory opinion under ORS 244.280 on the same facts or circumstances that form the basis for any staff advisory opinion.

244.284 Staff advice; effect of reliance on advice.

(1) Upon the written or oral request of any person, the executive director or other staff of the Oregon Government Ethics Commission may issue written or oral staff advice on the application of any provision of this chapter to any proposed transaction or action or any actual or hypothetical circumstance. Any written advice not designated as a staff advisory opinion under ORS 244.282 is considered staff advice issued under this section.

(2) Before imposing any penalty under ORS 244.350 or 244.360, the commission may consider whether the action that may be subject to penalty was taken in reliance on staff advice issued under this section.

244.290 General duties of commission; rules.

(1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

(e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

(f) Describe the application of provisions exempting items from the definition of “gift” in ORS 244.020;

(g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

(h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of “potential conflict of interest” under ORS 244.020;

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

(d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.

(4) Not less frequently than once each calendar year, the commission shall:

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates or that are addressed by the commission or by commission staff on a recurring basis; and

(b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.217 may be filed, without a fee, with the commission in an electronic format. The commission shall accept statements filed under ORS 244.050 and 244.217 in a format that is not electronic.

(6) The commission shall make statements filed under ORS 244.050 and 244.217, including statements that are not filed in an electronic format, available in a searchable format for review by the public using the Internet.

244.290.

(1) The Oregon Government Ethics Commission shall:

(a) Prescribe forms for statements required by this chapter and provide the forms to persons required to file the statements under this chapter or pursuant to a resolution adopted under ORS 244.160.

(b) Develop a filing, coding and cross-indexing system consistent with the purposes of this chapter.

(c) Prepare and publish reports the commission finds are necessary.

(d) Make advisory opinions issued by the commission or the executive director of the commission available to the public at no charge on the Internet.

(e) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

(f) Make statements and other information filed with the commission available for public inspection and copying during regular office hours, and make copying facilities available at a charge not to exceed actual cost.

(g) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

(2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to 171.785 and 171.992 and this chapter, including rules to:

(a) Create a procedure under which items before the commission may be treated under a consent calendar and voted on as a single item;

(b) Exempt a public official who is otherwise required to file a statement pursuant to ORS 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions of the body over which the public official has jurisdiction are so few or infrequent as not to warrant the public disclosure;

(c) Establish an administrative process whereby a person subpoenaed by the commission may obtain a protective order;

(d) List criteria and establish a process for the commission to use prosecutorial discretion to decide whether to proceed with an inquiry or investigation;

(e) Establish a procedure under which the commission shall conduct accuracy audits of a sample of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

(f) Describe the application of provisions exempting items from the definition of “gift” in ORS 244.020;

(g) Specify when a continuing violation is considered a single violation or a separate and distinct violation for each day the violation occurs; and

(h) Set criteria for determining the amount of civil penalties that the commission may impose.

(3) The commission may adopt rules that:

(a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes that qualify under the class exception from the definition of “potential conflict of interest” under ORS 244.020;

(b) Require the disclosure and reporting of gifts or other compensation made to or received by a public official or candidate;

(c) Establish criteria for cases in which information relating to notices of actual or potential conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

(d) Allow the commission to accept the filing of a statement containing less than all of the information required under ORS 244.060 and 244.070 if the public official or candidate certifies on the statement that the information contained on the statement previously filed is unchanged or certifies only as to any changed material.

(4) Not less frequently than once each calendar year, the commission shall:

(a) Consider adoption of rules the commission deems necessary to implement or interpret provisions of this chapter relating to issues the commission determines are of general interest to public officials or candidates or that are addressed by the commission or by commission staff on a recurring basis; and

(b) Review rules previously adopted by the commission to determine whether the rules have continuing applicability or whether the rules should be amended or repealed.

(5) The commission shall adopt by rule an electronic filing system under which statements required to be filed under ORS 244.050 and 244.217 must be filed, without a fee, with the commission in an electronic format.

(6) The commission shall make statements filed under ORS 244.050 and 244.217 available in a searchable format for review by the public using the Internet.

244.300 Status of records.

(1) Records of the Oregon Government Ethics Commission are public records of this state.

(2) All information submitted to the commission in any statement required under this chapter is a public record.

244.310 Executive director.

(1) The Oregon Government Ethics Commission shall appoint an executive director to serve at the pleasure of the commission.

(2) The executive director is 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.

(3) The commission may not delegate the power to adopt rules or issue commission advisory opinions to the executive director. The executive director may issue staff advisory opinions as provided in ORS 244.282.

244.320 Manual on government ethics; effect of reliance on manual; revision.

(1) The Oregon Government Ethics Commission shall prepare and publish 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. The manual shall set forth recommended uniform reporting methods for use by persons filing statements under this chapter. The manual, and any updates to the manual made under subsection (3) of this section, must be approved by a vote of a majority of the members of the commission.

(2) In preparing the manual, the commission shall consider the format of the manual prepared by the Attorney General to guide public officials and the public in the requirements of ORS chapter 192.

(3) The commission shall update the manual as often as the commission believes necessary but no less frequently than once every four years.

(4) The commission shall make copies of the manual available in an electronic format on the Internet.

(5) The commission may not impose a penalty under ORS 244.350 or 244.360 on a public official or candidate for any good faith action the public official or candidate takes in reliance on the manual, or any update to the manual, approved by the commission under this section.

244.330 Distribution of manual on government ethics. The Oregon Government Ethics Commission shall distribute, insofar as is practicable, copies of its ethics manual to every public official. The commission shall seek the assistance of professional associations that represent public officials in its efforts to comply with this section.

244.340 Continuing education program. The Oregon Government Ethics Commission shall prepare and present a program of continuing education for public officials. The commission may use its own staff or may contract for the preparation or presentation of the program of continuing education.

244.345 Oregon Government Ethics Commission Account. The Oregon Government Ethics Commission Account is established separate and distinct from the General Fund. All moneys received by the Oregon Government Ethics Commission, other than appropriations from the General Fund, shall be deposited into the account and are continuously appropriated to the commission to carry out the duties, functions and powers of the commission.

244.350 Civil penalties; letter of reprimand or explanation.

(1) The Oregon Government Ethics Commission may impose civil penalties not to exceed:

(a) Except as provided in paragraph (b) of this subsection, \$5,000 for violation of any provision of this chapter or any resolution adopted under ORS 244.160.

(b) \$25,000 for violation of ORS 244.045.

(2) (a) Except as provided in paragraph (b) of this subsection, the commission may impose civil penalties not to exceed \$1,000 for violation of any provision of ORS 192.660.

(b) A civil penalty may not be imposed under this subsection if the violation occurred as a result of the governing body of the public body acting upon the advice of the public body's counsel.

(3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708. A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that may be imposed under subsection (1) of this section.

(4) (a) The commission may impose civil penalties on a person who fails to file the statement required under ORS 244.050 or 244.217. In enforcing this subsection, the commission is not required to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or 244.217 has occurred.

(b) Failure to file the required statement in timely fashion is prima facie evidence of a violation of ORS 244.050 or 244.217.

(c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

(5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a civil penalty under this section, the commission may issue a written letter of reprimand, explanation or education.

244.355 Failure to file trading statement. A person who intentionally fails to file a complete and accurate statement under ORS 244.055 commits a Class C felony.

244.360 Additional civil penalty equal to twice amount of financial benefit. In addition to civil penalties imposed under ORS 244.350, if a public official has financially benefited the public official or any other person by violating any provision of this chapter, the Oregon Government Ethics Commission may impose upon the public official a civil penalty in an amount equal to twice the amount the public official or other person realized as a result of the violation.

244.370 Civil penalty procedure; disposition of penalties.

(1) Any civil penalty under ORS 244.350 or 244.360 shall be imposed in the manner prescribed by ORS 183.745.

(2) Notwithstanding ORS 183.745, a hearing is required in all cases prior to imposition of a penalty unless the public official or candidate waives the hearing. The public official or candidate to whom the notice is addressed has 10 days from the date of service of the notice in which to waive a hearing before the Oregon Government Ethics Commission and the public official or candidate 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.

244.390 Status of penalties and sanctions; consideration of other penalties imposed.

(1) A penalty or sanction imposed by the Oregon Government Ethics Commission under this chapter is in addition to and not in lieu of any other penalty or sanction that may be imposed according to law.

(2) Before making a finding that there is cause to undertake an investigation under ORS 244.260 and before imposing a civil penalty under ORS 244.350 or 244.360, the commission shall consider the public interest and any other penalty or sanction that has been or may be imposed on the public official as a result of the same conduct that is the subject of action by the commission under ORS 244.260.

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

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

(b) Any statute prohibiting or authorizing specific conduct on the part of any public official or candidate.

244.400 Attorney fees for person prevailing in contested case.

(1) A person who prevails following a contested case hearing under this chapter or ORS 171.778 shall be awarded reasonable attorney fees at the conclusion of the contested case or on appeal.

(2) Upon prevailing following a contested case hearing or lawsuit, the person may petition the Marion County Circuit Court 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) An appellate court shall award reasonable attorney fees to the person if the person prevails on appeal from any decision of the commission.

(4) Attorney fees to be awarded under this section shall be only those fees incurred by the person from the time the commission notifies the person that it has entered an order to move to a contested case proceeding.

(5) Any attorney fees awarded to the person pursuant to this section shall be paid by the commission from moneys appropriated or allocated to the commission from the General Fund.

ORS 275 — County Lands

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- 275.027 Adverse possession of county lands
- 275.030 Sale of real estate not in use for county purposes
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- 275.330 Conveyance of county forests, parks or recreational areas; agreements to manage timber
- 275.335 Exchanging land within county forest; reserving rights of way
- 275.340 Sale or lease of forest products, minerals or oil and gas from county forestland
- 275.360 Recording orders of county
- 275.370 Validation of conveyances prior to January 1, 1941

275.020 Form and effect of conveyance to county. All real or personal estate conveyed by any form of conveyance, and duly acknowledged and recorded, to the inhabitants of any county, or to the county treasurer, or to any committee or other persons for the use of such county, shall be deemed the property of such county. All such conveyances shall have the same force and effect as if made to the inhabitants of such county by their corporate name.

275.027 Adverse possession of county lands. The rights of any county to public lands are not extinguished by adverse possession. No title or property rights to public lands shall be acquired against the county through operation of a statute of limitations.

275.030 Sale of real estate not in use for county purposes.

(1) Except as otherwise provided by statute, the county governing body may, whenever it deems it to the best interest of the county so to do, sell and convey, in the manner provided for sale of county land under ORS 275.120, 275.140 to 275.160 and 275.180 to 275.260, any real estate owned by the county and not in use for county purposes. The sale shall be directed by an order of the county governing body entered upon the journals.

(2) A county may sell and convey real estate owned by the county in a manner provided in ORS chapter 271 if the real estate was not acquired by foreclosure for nonpayment of real property taxes and the county governing body deems it not to the best interest of the county to sell and convey in the manner provided under ORS 275.120, 275.140 to 275.160 and 275.180 to 275.260.

275.040 Conveyance pursuant to ORS 275.030. The conveyance transferring the real estate sold pursuant to ORS 275.030 to the purchaser thereof shall contain the date of the order authorizing such sale and the page and journal where the order is entered. The conveyance shall be signed by the county judge or the chairperson of the board of county commissioners and acknowledged in the manner provided by law for acknowledgment of other conveyances of real estate. A conveyance so made conveys all the interest of the county in the property described therein.

275.090 Powers of county as to lands acquired on foreclosure of tax liens, or by exchange, devise or gift. The governing body of each county shall have the following powers and duties with respect to all lands acquired by the county by foreclosure of delinquent tax liens, or by exchange, devise or gift:

(1) To protect such lands from fire, disease and insect pests, to cooperate with the United States of America, the State of Oregon, and with the agencies of both, with persons owning lands within such counties, and with other counties of the State of Oregon in the protection of such county-owned lands and to enter into all agreements necessary or convenient therefor.

(2) To sell, exchange, and lease such lands or any portion of or interest in the same less than the whole fee.

(3) To grant easements and rights of way over, through and across such lands.

(4) To reforest cut-over or burned-over timberlands and to cooperate with the United States of America, the State of Oregon and the agencies of both, and with other counties of the State of Oregon, and with persons, firms and corporations owning timberlands within such county in such reforestation and to make all agreements necessary or convenient therefor.

(5) To make all rules and regulations, not inconsistent with law, necessary or convenient for the protection, administration, operation, conveyance, leasing and acquisition of lands.

(6) To employ such assistance as may be necessary to carry out the provisions of ORS 275.090 to 275.316 and to cooperate with other counties in this state in such employment.

275.105 Acquisition by county of 90 percent of the lots in a plat for taxes and purchase of remaining lots; vacation of whole plat. If any county has bid in and acquired for taxes and has received a deed for not less than 90 percent of the number of the lots in any addition or subdivision or plat, and if it considers it wise so to do, the governing body of the county shall, by order duly made and entered, authorize the purchase of such remaining lots from the owners or may exchange for the lots other lots owned by such county. Upon acquiring title to all the lots in any addition or subdivision or plat, it may enter an order vacating the whole of such addition, subdivision or plat. If any remaining lots are purchased by the county pursuant to this section, the purchase price of the lots shall not be greater than the real market value of the lots, and if other lots are exchanged for the remaining lots, those lots shall be accepted in full payment of the purchase price of the lots for which they are exchanged.

275.110 Order to sell certain county lands; exception.

(1) When the governing body of a county considers it to be for the best interests of the county to sell any real property acquired in any manner by such county, or any interest therein less than the whole fee, it shall enter an order upon its records directing the sheriff to make sale thereof, and fix the minimum price for which each interest, parcel or group of parcels may be sold and the conditions and terms of sale. The order may be amended from time to time or revoked as the governing body deems proper.

(2) Subsection (1) of this section and ORS 275.120 to 275.160 do not apply to the sale of any real property to any other public body or to the sale of any real property that is an industrial facility as defined by ORS 271.510. The sale of industrial facilities shall be made in the manner provided by ORS 271.510 to 271.540.

275.120 Sheriff's notice of sale.

(1) Upon receipt of a certified copy of the order referred to in ORS 275.110, the sheriff shall publish a notice of the sale of such property in a newspaper of general circulation, printed and published in the county where the land is situated, once each week for four consecutive weeks prior to such sale.

(2) The notice shall state:

- (a) The time and place of sale;
- (b) The description of the property or interest therein to be sold;
- (c) If available from the tax roll, the real market value of the property or interest to be sold as evidenced by the last roll certified under ORS 311.105 on which the property was included;
- (d) The minimum price for the property or interest to be sold, as fixed by the governing body of the county, which may be lower than the tax roll value;
- (e) The date of the order directing the sale; and
- (f) Such other matters as the governing body of the county deems pertinent.

(3) Proof of publication of the notice shall be made in the same manner as proof of publication of summons is made, and shall be filed by the sheriff with the county clerk of the county, and then recorded in the deed record of the county.

275.130 Claims of municipal corporations against the land to be filed prior to sale. Prior to the date set for the sale of property as indicated in the notice of sale required under ORS 275.120, a municipal corporation may file with the county clerk notice that the municipal corporation has a lien arising out of an assessment for local improvement against the property described in the notice. The notice shall identify each property described in the notice to which a lien for assessment for local improvement has attached and shall state the principal amount of the lien and the interest thereon to date. Upon receipt of the notice, the county clerk shall forward a copy of the notice to the county treasurer and to the county employee respon-

sible for the management of county-owned real property acquired by the foreclosure of delinquent property taxes. A notice filed within the time and in the manner permitted under this section shall preserve the rights of a municipal corporation to a distribution under ORS 275.275 (3)(a)(A).

275.140 Time and place of sale. All sales shall be made in the county in which the land is situated between the hours of 10 a.m. and 4 p.m., and may be adjourned from day to day for not to exceed 30 days by the sheriff, by public announcement made by the sheriff at the time and place designated in the notice of sale or at the time and place to which the sale may be adjourned.

275.150 Certificate of sale. At the time of sale, the sheriff shall give to each purchaser a certificate containing a particular description of the property sold, the whole purchase price, the amount paid in cash and the dates upon which future payments will become due.

275.160 Sale return. Upon the close of such sale, the sheriff shall make due return to the governing body of the county of the proceedings of the sheriff pursuant to the commands of such order of sale.

275.180 Sale to record owner or contract purchaser of property; conditions.

(1) The governing body of a county may at any time, without the publication of any notice, sell and convey by deed to the record owner or the contract purchaser of record, any property acquired by the county for delinquent taxes for not less than the amount of taxes and interest accrued and charged against such property at the time of purchase by the county with interest thereon at the rate of six percent per annum from the date of such purchase.

(2) All such sales of any such property to the record owner or the contract purchaser of record shall be subject to all liens or claims arising out of any assessment for a local improvement levied against such property, or any part thereof, by any municipal corporation and remaining unsatisfied, and also shall be subject to any title or equity of the municipal corporation predicated upon or growing out of any such lien or assessment.

275.188 Definitions for ORS 275.110 to 275.250.

(1) As used in ORS 275.110 to 275.250, "purchase agreement" means a purchase money mortgage, a purchase money trust deed, a land sale contract or any other written purchase agreement other than an earnest money agreement that requires payment of an earnest money deposit upon execution and payment of the outstanding balance in one additional payment.

(2) As used in ORS 275.190, "for cash," when used to describe the terms of a sale of county property, includes a sale pursuant to an earnest money agreement that requires payment of an earnest money deposit upon execution and payment of the outstanding balance in one additional payment.

275.190 Cash or installment sale; rights and liabilities of installment purchaser.

(1) Sales made under ORS 275.110 to 275.250 must be to the highest and best bidder:

(a) For cash; or

(b) For not less than 10 percent of the purchase price in cash with the remainder to be paid under a purchase agreement in equal installments over a term not exceeding 20 years from the date of sale and with deferred payments bearing interest from the date of sale at a rate set by the governing body of the county and payable annually.

(2) In advertising for bids, the county shall state whether the sale will be made for cash or by purchase agreement. If by a purchase agreement that allows for deferred payments, the county shall also state the term and the rate of interest to which the county will agree.

(3) The purchaser shall have the possession of, and the income from the premises so long as the purchaser is not in default in the performance of the purchase agreement with the county, but shall forfeit the purchaser's rights under the agreement and to all payments made pursuant thereto if the purchaser fails to pay the purchase price or any part of the purchase price, principal or interest, or to pay, before delin-

quency, the taxes thereafter levied against the premises, or commits or suffers any strip or waste of or on the premises, or violates any other reasonable provision of the purchase agreement that the governing body of the county may see fit to require. The purchaser shall have the privilege of prepayment without penalty. The provisions of this subsection must be incorporated in the purchase agreement.

275.200 Sale of land not sold by sheriff.

(1) When the governing body of a county enters an order under ORS 275.110 directing the sheriff to sell real property acquired in any manner by the county, if all or a part of the land remains unsold after the time set for the sale in the sheriff's published notice or after adjournment of a sheriff's sale, the governing body of the county may sell the lands as provided in subsection (2) of this section.

(2) After the sheriff has unsuccessfully attempted to sell real property of the county as provided in ORS 275.120 to 275.160, the governing body of the county may sell all or a part of the land, or an interest in the land less than the whole fee, at private sale without further notice but for not less than the largest amount bid for the land at the sheriff's sale, or, if no bid was made, at a price the governing body of the county deems reasonable, but at a price no less than 15 percent of the minimum bid set under ORS 275.110 for the sheriff's sale.

(3) A sale under this section must be made in the manner provided by ORS 275.190 (1).

(4) Nothing in this section prohibits the governing body of a county from entering an order at any time under ORS 275.110 directing the sheriff to sell real property of the county as provided in ORS 275.120 to 275.160.

275.210 Filing of purchase agreement; assignment.

(1) A purchase agreement made pursuant to ORS 275.190 or 275.200 must be filed with the clerk, accountant or secretary, as the case may be, of the county in which the real property is situated.

(2) An assignment of a purchase agreement, or of an interest in the purchase agreement or of an interest in the property described in the purchase agreement, is not valid unless it is in writing, subscribed by the holder of the purchase agreement and filed with the county clerk of the county in which the land is situated.

275.220 Procedure upon default or breach under land sale contract.

(1) In case of breach of condition or other default in performance of a land sale contract made pursuant to ORS 275.190 or 275.200, the governing body of a county may, by order made and entered in its records, declare the breach or default and cancel the land sale contract or enter into a new purchase agreement in writing. If the land sale contract is canceled and the holder is found within the county, a certified copy of the order shall be served as a summons is served by the sheriff upon the holder of the canceled land sale contract. If the land sale contract is canceled and the holder is not found within the county, a certified copy of the order shall be served by mailing it to the holder by registered mail or by certified mail with return receipt at the last-known address of the holder. Return of such service shall be made upon such copy of order.

(2) Within 20 days after the service of the order of cancellation upon the holder, the holder of the canceled land sale contract may appeal from the order to the circuit court for the county in which the land is located. The circuit court shall try the appeal as an action not triable by right to a jury. If appeal is not taken or if it results, upon trial, in an affirmance of the order of cancellation, the order becomes absolute and the real property forfeited may be sold without notice.

(3) In addition to the remedy for breach or default of a land sale contract under this section, a county may pursue any other remedy provided by law for breach or default of a land sale contract including, but not limited to, the remedy provided by ORS 93.905 to 93.940.

(4) In case of breach of condition or other default in performance of a purchase agreement

other than a land sale contract, a county may pursue any remedy provided by law for breach or default of a purchase agreement other than a land sale contract.

275.225 Sale of county land by private sale; conditions; notice; terms.

(1) Notwithstanding ORS 275.110 to 275.220, the governing body of a county may authorize the sale of county land by private sale as provided in this section if each parcel of county land to be sold:

(a) Has a real market value of less than \$15,000 on the assessment roll prepared for the county; and

(b) Is unsuited for the construction or placement of a dwelling under applicable zoning ordinances and building codes.

(2) The governing body of the county may publish a notice of the private sale of county land described in subsection (1) of this section in a newspaper of general circulation in the county. The notice must contain a description of the land and must indicate the real market value of the land.

(3) Not earlier than 15 days after publication of the notice, an officer or employee of the county authorized by the governing body of the county to sell the land may sell all or a part of the land, at private sale without further notice, at a price the governing body of the county considers reasonable.

(4) A sale under this section must be made in the manner provided by ORS 275.190 (1).

275.240 Taxation of county lands sold under purchase agreement. Land sold under a purchase agreement in accordance with ORS 275.190 (1) is subject to taxation to the same extent as other privately owned real property. When a purchase agreement is canceled, as provided in ORS 275.220, the real property must be removed from taxation and all taxes then unpaid must be canceled.

275.250 Notice to county assessor of sale or resale. Upon any sale or resale as provided in ORS 275.110 to 275.220, the governing body of the county shall notify the county assessor thereof.

275.260 Lands acquired by county on tax foreclosure exempt from taxes of other taxing districts. No claim shall ever be allowed against the county in favor of any municipal corporation, school district, road district or other taxing district for taxes levied on the property heretofore or hereafter acquired by any county by foreclosure of delinquent taxes or otherwise under ORS 275.090 to 275.220, but all taxes shall at the time of the acquisition of the property by such county thereby be canceled.

275.275 Distribution of proceeds.

(1) (a) The proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 must be applied:

(A) First, to refund the county general fund for the full amount advanced by the county to pay the state tax upon all properties upon which the county has foreclosed liens for delinquent taxes;

(B) Second, to the county general fund in an amount equal to the penalty and fee described in ORS 312.120 for each property upon which the county has foreclosed a lien for delinquent taxes; and

(C) Third, to refund the county general fund for all the costs and expenses incurred by the county in the maintenance and supervision of such properties and in any suits by it to quiet its title to property sold. The proceeds applied as refunds under this subparagraph and subparagraph (A) of this paragraph shall not amount to more than the tax actually paid and the costs and expenses actually incurred by the county.

(b) After the refunds authorized under paragraph (a) of this subsection are made, the county treasurer shall credit to the county general fund proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 from the sale of real property acquired by the county in a manner other than by foreclo-

sure of delinquent tax liens or by exchange for land originally acquired by foreclosure of delinquent tax liens. The proceeds described in this paragraph include payments for the real property sold under a purchase agreement pursuant to ORS 275.190 or 275.200.

(2) The proceeds arising under ORS 275.294:

(a) Must be credited to the county general fund by the county treasurer, if received from a lease or conveyance granting rights to explore, prospect for or remove biogas that is produced by decomposition of solid waste at any land disposal site or former land disposal site owned by the county. As used in this paragraph, "land disposal site" has the meaning given that term in ORS 459.005.

(b) Must be segregated from the portion of the proceeds described in paragraph (a) of this subsection and deposited in a separate account maintained by the county. Interest earned on the segregated portion of the proceeds must be credited to the account established under this paragraph.

(c) May be used, in an amount that does not exceed 10 percent of the proceeds, to reimburse a taxing district within the county for costs and expenses necessarily incurred by the district in providing improved, additional or extraordinary services required on lands in the county as a result of exploration, drilling, mining, logging or other activities authorized under a lease or conveyance under ORS 275.294. As used in this paragraph, "improved, additional or extraordinary services" includes, but is not limited to, fire protection and road construction and maintenance.

(d) May be used to reimburse the county for its actual costs and expenses incurred under this subsection and under ORS 275.294 for:

(A) The maintenance and supervision of a lease or conveyance granting rights to explore, prospect for, mine or remove valuable minerals, oil or gas from the lands;

(B) The maintenance and supervision of a lease or conveyance granting rights to conduct underground storage, as defined in ORS 520.005; and

(C) Litigation resulting from a lease or conveyance described in subparagraph (A) or (B) of this paragraph.

(3) (a) After a portion of the proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 and a portion of the proceeds arising under ORS 275.294 are applied as provided in subsections (1) and (2) of this section, the balance of the proceeds arising under ORS 275.090 to 275.290 and 275.296 to 275.310 and the balance of the proceeds arising under ORS 275.294, including the payments for land sold under contract pursuant to ORS 275.190 or 275.200, must be distributed by the county treasurer as follows:

(A) First, to a municipal corporation that has filed a notice, in accordance with ORS 275.130, relating to a local improvement lien against the property from which the sale proceeds are derived. The amount of the distribution to each municipal corporation must be in the principal amount of the lien, plus the interest and any penalties that accrued to the date of sale of the property.

(B) Second, to governmental units in accordance with the formula provided in ORS 311.390 for the distribution of tax collections. The amount distributed to governmental units must be the amount remaining after the distribution, if any, under subparagraph (A) of this paragraph.

(b) Notwithstanding ORS 294.080, as used in this subsection, "balance of the proceeds" includes all accumulated interest earned on the proceeds arising under ORS 275.294 that are segregated pursuant to subsection (2)(b) of this section, unless a court of competent jurisdiction rules otherwise.

(4) Distribution of moneys under subsections (2) and (3) of this section must be made on or before June 30 in each year.

(5) The county treasurer or auditor shall verify the costs and expenses to be reimbursed under subsection (2) of this section.

(6) The county treasurer shall distribute reimbursements under subsection (2) of this section in accordance with an order of the governing body of the county.

275.290 Sale or lease of timber on county lands.

(1) In any instrument of conveyance or agreement for conveyance of timber upon lands acquired by any county by foreclosure of delinquent tax liens or otherwise under ORS 275.090 to 275.220, the governing body of the county may provide such conditions and regulations of cutting and slash disposal as may be deemed to be for the best interests of the county, which conditions and regulations shall be in addition to the provisions of the state forest fire law.

(2) Any purchaser of such timber may be required to give a bond or undertaking in favor of the county conditioned upon the compliance of the purchaser with all such conditions and regulations and with the provisions of the state forest fire laws, the bond to be in an amount not less than the full purchase price of the timber.

(3) The instrument or agreement for conveyance may be made for a term of years, in which case all rights and interests thereby granted by the county shall revert to and revest in the county upon expiration of the term.

275.294 Sale or lease of right to prospect for and remove minerals or oil and gas from county lands.

(1) Nothing contained in this chapter shall prohibit the governing body of a county, whenever it appears to the best interest of the county, from making or executing a lease or conveyance granting rights to explore or prospect for valuable minerals or oil and gas and for the mining and removal of the same from any lands acquired by such county through foreclosure of tax liens or otherwise.

(2) Except as provided in subsection (3) of this section, any lease or conveyance of minerals or oil and gas or interest in such lands shall be granted to the highest bidder, after an opportunity for competitive bidding is given by advertisement of the proposed sale or lease for not less than once a week for two successive weeks by publication in one or more newspapers having general circulation in the county, and under such terms, conditions and regulations as the governing body of the county provides under ORS 275.300.

(3) The governing body of the county, as to any land which is owned by the county or whereon the mineral rights are reserved by the county, may execute leases and contracts, other than for gas or oil, upon a royalty basis without requiring bids for the mining of gold, silver, copper, lead, cinnabar and valuable minerals or mineral materials from such lands upon terms and conditions agreed upon by the governing body of the county and the lessee.

275.296 Validation of certain conveyances prior to August 3, 1955. All leases and conveyances granting the right to explore or prospect for minerals or oil and gas and for the mining and removal of the same on or from county-owned lands, executed and delivered by the governing body of a county prior to August 3, 1955, and which might be invalid only because the governing body of the county was not expressly authorized by statute to execute and deliver such leases or conveyances, hereby are validated and declared to be legal and enforceable.

275.298 Sale of minerals or mineral rights; preferential right of holder of interest less than fee.

(1) In any sale hereafter made under ORS 275.110 to 275.250 of minerals or mineral rights heretofore reserved to a county where such minerals or mineral rights were acquired by a county by foreclosure of delinquent tax liens, the holder of an interest less than the fee in the same lands where the mineral rights are located shall have the right to purchase such minerals or mineral rights interest by depositing with the sheriff within 60 days from date of sale not less than the high amount bid for the minerals or mineral rights by a third person. If no sale was made at the offering, then such person shall have the right to purchase at whatever price the governing body of the county deems reasonable.

(2) Unless the purchaser at any sale is the owner of some interest less than the fee, the execution of a deed shall be postponed for 60 days from the date of sale in order to give the party granted preferential right under subsection (1) of this section, or the assignee of the party, the right to exercise the preference in the manner set forth in subsection (1) of this section.

(3) The provisions of this section shall not be applicable to the sale of mineral rights on or under any land suitable for the commercial production or development of timber.

275.300 Sale of mineral or other interest in county lands less than fee; conditions and regulations; bond. In any conveyance or agreement for conveyance of any minerals, or other interest, less than the whole fee, in any lands acquired by any county by foreclosure of delinquent tax liens or otherwise under ORS 275.090 to 275.220, the governing body of the county may provide such conditions and regulations as may be deemed to be for the best interests of the county and may require of the purchaser a satisfactory bond or undertaking in the name of the county in an amount not less than the whole purchase price of such minerals or other interests in such lands, conditioned upon the compliance of the purchaser with such conditions and regulations.

275.310 Partition of land in which county has acquired interest. Any county which has acquired or shall acquire an undivided interest in real property by foreclosure of delinquent tax liens, shall have the benefit of the statutes of this state providing for the partition of real property owned by tenants in common. Such county may become a purchaser at any sale of such real property upon partition.

275.312 Conveyance by county of reserved or excepted mineral rights. Notwithstanding any other law, in any county where the surface rights to tax-foreclosed lands have been conveyed and the mineral rights on such lands have been reserved or excepted by the governing body of the county making such conveyance, upon written application of the owner of such surface rights, the governing body of the county, whenever it appears to the governing body of the county to be in the best interests of the county, may convey such reserved or excepted mineral rights to the owner of the surface rights in accordance with ORS 275.314 and 275.316.

275.314 Contents of application; investigation and hearing. Each application presented to the governing body of the county under ORS 275.312 must be accompanied by evidence satisfactory to the governing body of the county showing that the applicant is the owner of the surface rights to the lands described in the application, and also by a cash deposit or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in an amount sufficient to reimburse the county for all costs of such transfer, including but not limited to the costs of investigation and legal work, which shall be paid by the applicant. The governing body of the county then shall cause an investigation to be made by qualified geologists or mining engineers in regard to the probable value of such mineral rights. If the governing body of the county finds that such rights are of little or doubtful value and that it would be in the best interests of the county to transfer such rights to the owner of the surface rights, the governing body of the county may make and enter an order declaring its intention to make such transfer and setting a time and place for hearing objections thereto. The time for the hearing shall be set not earlier than six weeks after the date of the order.

275.316 Notice of hearing; findings; execution of conveyance.

(1) The county clerk shall give notice of the time and place of the hearing scheduled under ORS 275.314 by publication in a newspaper of general circulation published in such county, once each week for four consecutive weeks prior to the hearing. The notice shall set forth the time and place of the hearing, the name of the applicant and a description of the lands in the proposed transfer. If no newspaper of general circulation is published in the county, notice may be given by the clerk by posting such notice in at least four public places in the county.

(2) Upon such hearing, if the governing body of the county finds that such mineral rights are of little or doubtful value and that it would be in the best interests of the county to convey such rights to the record owner of the surface rights, it may fix a minimum value for such rights and enter an order accordingly. Thereupon the governing body of the county, after receiving payment of such value, may execute and

deliver the necessary deeds of conveyance.

275.318 Sale or lease of land located in industrial use zone; Industrial Development Revolving Fund; use of proceeds of sale.

(1) When the governing body of a county sells or leases real property acquired in any manner by the county, if that property is located in an area planned and zoned for industrial use under an acknowledged comprehensive plan of the county, the governing body may order all the moneys paid to the county under the terms of the sale be deposited with the county treasurer and credited to a special fund created by the governing body and designated the Industrial Development Revolving Fund of the county.

(2) The county treasurer shall disburse the moneys in the Industrial Development Revolving Fund of the county only upon the written order of the county governing body and only for the purposes set forth in subsection (3) of this section.

(3) Moneys in an Industrial Development Revolving Fund created under this section by a county governing body shall be expended only for the engineering, improvement, rehabilitation, construction, operation or maintenance, in whole or in part, including the preproject planning costs, of any development project authorized by ORS 271.510 to 271.540 and 280.500 that is located in the county and that could directly result in one of the following activities:

- (a) Manufacturing or other industrial production;
- (b) Agricultural development or food processing;
- (c) Aquacultural development or seafood processing;
- (d) Development or improved utilization of natural resources;
- (e) Convention facilities and trade centers;
- (f) Transportation or freight facilities; and

(g) Other activities that represent new technology or types of economic enterprise the county governing body determines are needed to diversify the economic base of the county.

(4) If moneys from the sale of county property located in an area planned and zoned for industrial use are not credited to the Industrial Development Revolving Fund of the county, those moneys shall be distributed as provided in ORS 275.275.

(5) The governing body of a county may sell, lease or convey the real property described in this section, including any part thereof or interest therein, at public or private sale, with or without advertisement, and do all acts necessary to the accomplishment of the sale, lease or conveyance.

275.320 Designation of county forests, parks and recreational areas. The governing body of a county may, by order, designate as county forests, public parks or recreational areas any real property heretofore or hereafter acquired by the county for delinquent taxes or otherwise. Where the park or recreational area is situated in whole or in part within the corporate limits of any city the county first shall obtain the consent or approval, by resolution or ordinance adopted by the city consenting or approving the creation of the public park or recreational area.

275.330 Conveyance of county forests, parks or recreational areas; agreements to manage timber.

(1) Upon the entry of an order by the governing body of a county setting aside the real property for county forest, public park or recreational area, the lands shall be set apart for such use. Thereafter such lands may not be alienated by the governing body of the county for any purpose unless authorized by a majority of the electors of the county in a regular or special election, except that:

(a) In counties having 450,000 population or over according to the latest federal decennial census:

(A) The lands may be sold and conveyed by the governing body of a county if it considers the sale to be in the best interests of the county; or

(B) The lands may be conveyed without payment or compensation for park and recreational purposes to any public educational institution, park and recreation district, service district formed under ORS chapter 451 to provide and maintain park and recreational facilities or nonprofit corporation organized under the laws of the State of Oregon for as long as the lands so conveyed are used for such purposes. Any lands conveyed under this subparagraph shall automatically revert to the county if the lands are not used for such purposes or if the institution, district or corporation to which the lands are conveyed is dissolved. However, lands conveyed under this subparagraph to a nonprofit corporation which is organized for the purpose of promoting the preservation of park and recreational areas may be conveyed without restriction subject to prior approval of the governing body of the county. When lands are conveyed under this subparagraph, the county shall be relieved from any obligation to account for the payment of any taxes, liens or assessments that may have been levied against the lands by any taxing agency, district or municipality authorized to levy against any of the lands.

(b) The governing body of a county may convey the lands to the state, an incorporated city, a park and recreation district or the United States Government for public use. The conveyance may be made without the payment of compensation, and when so made the county shall be relieved from any obligation to account for the payment of any taxes, liens or assessments that may have been levied against the lands by any taxing agency, district or municipality authorized to levy taxes against any of the lands.

(c) The governing body of a county may enter into agreements with the state or the United States for the management of the timber and other forest products on the designated county forestlands.

(2) In addition to the methods described in subsection (1) of this section, lands that have been set aside for county forest, public park or recreational area may be alienated, sold or conveyed, in part or in whole, by the public body upon a finding that it is in the best interest of the public. Upon a determination that an alienation, sale or conveyance is in the public interest, the lands set aside may be sold at public or private sale, or other lands may be taken in exchange and set aside for park or recreational purposes. When a sale, an alienation or conveyance takes place, the proceeds shall be held for maintenance and improvement of existing park and recreation lands or future acquisition of lands to be set aside for park or recreational purposes.

(3) Before making an order for an alienation, sale or conveyance of the property without approval at an election, or before entering into agreements for management of timber and other forest products under subsection (1)(c) of this section, the county governing body shall hold a hearing in the county at which objections to the proposed agreements or alienation, sale or conveyance may be heard. Notice of the hearing shall be given by publication weekly for two consecutive weeks in a newspaper circulated generally within the county, and the notice shall describe particularly the property affected.

275.335 Exchanging land within county forest; reserving rights of way.

(1) Notwithstanding the provisions of ORS 275.330 or 275.340, the governing body of a county may provide for the exchange of land within a designated county forest for other land when in the judgment of the governing body of the county, supported as provided in subsection (3) of this section, such exchange is for equal value and is in the best interest of the county. Such exchanges shall be authorized under this section only when the land obtained by the county in exchange is immediately incorporated into the designated county forest.

(2) Before making an order for exchange of property, the governing body of the county shall hold a hearing at which objections to the proposed exchange of real property may be heard. Notice of the hearing shall be given by publication weekly for two consecutive weeks, or two publications in all, in a newspaper circulated generally within the county, such notice to describe particularly the property affected.

The date of hearing shall be not less than five days following the last date of publication of notice.

(3) The exchange authorized in subsection (1) of this section shall be made by order of the governing body of the county and supported by reports of the value of the properties being exchanged submitted by:

(a) The county assessor; and

(b) The county forester or other qualified agent selected by the governing body.

(4) The exchanges authorized in this section may include any timber on the land involved if the value of such timber is established as provided in subsection (3) of this section.

(5) The governing body of the county shall reserve all rights of way in all lands exchanged as provided in subsection (1) of this section to permit proper administration and management of county lands and forests retained or received in exchange by the county.

275.340 Sale or lease of forest products, minerals or oil and gas from county forestland.

Nothing contained in ORS 275.320 and 275.330 shall prohibit the county governing body from selling the timber and other forest products or from leasing the right to prospect for and remove minerals or oil and gas in the manner stated in ORS 275.294 from the designated county forestland when in the judgment of the county governing body the sale or lease is deemed for the best interests of the county. All sales of timber and other forest products in excess of the value of \$5,000 shall be made only after an opportunity for competitive bidding is given by advertisement of the proposed sale for not less than once a week for two successive weeks by publication in one or more newspapers having general circulation in the county. Where more than one bid has been received, or in case of doubt as to which of a number of bids is the highest and most advantageous to the county, the decision of the county governing body shall be final and conclusive and shall not be subject to review by any court. Each bid shall be accompanied either by a certified check, or by a good and sufficient bond furnished by a surety company authorized to do business in the state, in favor of the county, in a sum to be determined by the county governing body.

275.360 Recording orders of county. Certified copies of all orders of the governing bodies of the several counties made under ORS 275.320 to 275.340 affecting the title or status of real property shall be recorded in the deed records of the county in which such lands are located.

275.370 Validation of conveyances prior to January 1, 1941. All deeds and conveyances of the governing bodies of the several counties executed and delivered prior to January 1, 1941, conveying real property theretofore set aside by the governing bodies of the several counties as public parks and recreational areas under ORS 275.320 hereby are validated and declared to be legal and of full force and effect, both in law and in equity.

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