



**Sunset Empire Transportation District**

**BOARD OF COMMISSIONERS**

**BOARD MEETING AGENDA**

**THURSDAY OCTOBER 27, 2016**

**9:00 AM**

**Astoria Transit Center, 900 Marine Drive Astoria, OR**

**AGENDA:**

1. CALL TO ORDER; PLEDGE OF ALLEGIANCE TO THE FLAG
2. ROLL CALL
3. CHANGES TO AGENDA
4. PUBLIC COMMENT (3 minute limit)
5. APPROVAL OF SEPTEMBER 22, 2016 MEETING MINUTES
6. REPORTS FROM CHAIR AND COMMISSIONERS
7. FINANCIAL REPORTS- SEPTEMBER 2016
8. OLD BUSINESS
  - a. BOARD GOAL SETTING SESSION UPDATE
9. NEW BUSINESS
  - a. ODOT AGREEMENT 31459 FOR 5339 GRANT AWARD FOR VEHICLE PURCHASE
  - b. APPOINTMENT OF NEW MEMBER TO THE SENIOR & DISABLED TRANSPORTATION ADVISORY COMMITTEE
  - c. SPECIAL DISTRICTS BOARD BEST PRACTICES 2016
  - d. RESOLUTION 2016-02 NUMBER CORRECTION
10. EXECUTIVE DIRECTOR REPORT/QUARTERLY REVIEW REPORTS
11. LEADERSHIP TEAM REPORT
12. PUBLIC COMMENT (3 minute limit)
13. OTHER ITEMS



**BOARD OF COMMISSIONERS  
BOARD MEETING MINUTES  
SEPTEMBER 22, 2016**

1. CALL TO ORDER- Chair Kathy Kleczek called the meeting to order at 9:00 am.
2. ROLL CALL:  
Present: Chair Kathy Kleczek, Vice Chair Paul Lewicki, Commissioner Kevin Widener, Commissioner Jim Servino, Commissioner Carol Gearin and Commissioner MacDonald. Commissioner Gaebel was excused.  
  
Staff Present: Executive Director Jeff Hazen, Executive Assistant Mary Parker, Finance Officer Al Hernandez, IS/Transit Center Manager John Layton, RideCare Manager Jason Jones, Operations Manager Scott Earls, Paratransit Manager Jennifer Geisler and Transportation Options Specialist Shasia Fry.
3. CHANGES TO AGENDA- None
4. PUBLIC COMMENT- Donna Lynch from Seaside stated that she has concerns and complaints about the RideCare Gas Voucher program and that she has an adversarial relationship with Jason that is going nowhere. Donna stated that she was recently denied a gas voucher by RideCare due to her son not attending a class she had taken him to. Donna stated that she was told that since her son did not attend the class that OHP could not be billed so a gas voucher could not be issued. Donna said that this gas money was important to her and she checked with Medix Ambulance and K and M which both said they still get paid for trips whether the client actually attends the appointment or not. Donna stated that she had an aggressive discussion with Jason about this matter and that is why she came to the meeting today. Donna also wanted to remind Jason that he works for and is paid by the public. Donna explained the required steps of the voucher reimbursement process. Chair Kleczek reminded Donna that she had used 3 minutes. Donna stated she is tired of dealing with Jason and if someone doesn't do something with him she is going to go to Debbie Boone. Donna said she told Jason she was going to come to the Board meeting and plans to continue coming to the meetings until he changes his attitude. Chair Kleczek ended Public Comment, thanked Donna for her comments and said the Board makes policy for the District and recommended Donna contact Executive Director Hazen for further discussion.
5. APPROVAL OF AUGUST 25, 2016 MEETING MINUTES  
Commissioner Servino moved to approve the August 2016 Board Minutes  
Commissioner MacDonald seconded the motion  
Discussion-None  
Motion passed by unanimous aye vote.
6. REPORTS FROM CHAIR AND COMMISSIONERS
  - a. Commissioner Lewicki- Expressed what a pleasant experience an unpleasant event had been in honoring Rae Goforth at her memorial and how impressed he was at the presentation given by Rae's granddaughter.
  - b. Commissioner Widener- No comment
  - c. Commissioner MacDonald- Echoed Paul's comments about Rae's memorial service.
  - d. Commissioner Gearin- Agreed with Paul's comments about Rae's memorial and added that she learned a lot about Rae that she had not previously known.
  - e. Commissioner Servino- No comment as a Commissioner, but said he was truly touched by how long Rae had served on this Board and all the highs and lows she had been through and to know from her efforts it has come to where it is now.
  - f. Chair Kleczek- Commented that she had also attended Rae's memorial and what her granddaughter had to say really struck her and she can only hope that someday people will say the same types of things about the work that we have done, the job that we do and the energy that we put into making our community more of a community and a better place to live. These are big shoes we have to fill. Kathy also reported that as an ACT member she attended the legislative committee's regional roundtable that was in Hillsboro. Kathy said there was a lot of discussion about the vital importance of Highway 101.
7. FINANCIAL REPORTS-JULY 2016  
Chair Kleczek asked if Al would contact ADHDA this month as she had asked him to contact them last month as prospective users of the vacant parking spaces. Chair Kleczek stated that she had asked Al for an update on the use of the \$1800 QuickBooks annual support service. Al said he uses this service quite a bit and feels it is worth it. There was

discussion about cost allocation plan which is currently as it was when approved in the budget. AI said if any future changes need to be made he will bring them before the Board.

Commissioner Widener moved to approve the August 2016 Financial Report as presented

Commissioner Gearin seconded the motion

Discussion- None

Motion passed by unanimous aye vote

## 8. OLD BUSINESS

### a. Approval of Long Range Comprehensive Transportation Plan-

Executive Director Hazen reported that this is a continuum from the presentations at the last 2 Board meetings.

Commissioner Lewicki moved to accept Resolution 2016-02 to adopt the plan

Commissioner Widener seconded the motion

Discussion- Chair Kleczek asked if there had been any feedback from any of the towns or other entities that could be effected. Executive Director Hazen stated that he will be setting up meetings with all the city and county planners so the consultants can begin work with them and there is also work being done with a new grant that Tillamook recently received that involves Cannon Beach and Manzanita and will enhance the Connector service. Commissioner Widener said that the plan was given to the city of Cannon Beach for review at the last meeting. Chair Kleczek commented that she appreciated all the hard work and investigations that the consultants put into this report.

Motion passed by roll call vote

Name	Aye	Nay	Absent
Chair Kleczek	X		
Commissioner Gaebel			X
Commissioner Gearin	X		
Commissioner Widener	X		
Commissioner MacDonald	X		
Commissioner Lewicki	X		
Commissioner Servino	X		

### b. Information Technology Services-

Executive Director Hazen reported that after review of the Request For Quote (RFQ's) submitted and after consulting with John and AI, he is recommending that we move forward with approving mindSHIFT as the provider of our IT support. Commissioner Lewicki commented that he requested that the Board take a look at the RFQ's submitted because of what we went through last time and he that he is very pleased with how comprehensive, professional and a fully adequate these are. Commissioner Gearin expressed concerns that mindSHIFT will not work on equipment they do not approve and wondered when they would be looking at our equipment. She also had concerns with inconsistencies in what they say they will do, the cost of service calls, addition errors and spelling errors. Chair Kleczek noted that there is no mention of them helping us on our website or protecting us through our website and they will only cover 24 work sites and email addresses and we have many more than that. Chair Kleczek also said their only recommended spend on equipment in the first 6 months is about \$17,000, there are no reports on the references that we asked for on either company, they say our back up will be retiring in 1 to 6 months and it was just replaced and they say we do not have a plan on cloud storage. Executive Director Hazen reported that he had checked the references on mindShift and Mossytech and he received glowing references on each of them. Commissioner Servino asked Executive Director Hazen besides price what the determining factor was. Executive Director Hazen said it was the price. Commissioner Servino asked if these proposals came back right around the same price which of these companies would you go with. Executive Director Hazen said he would choose mindSHIFT because they have been in the business quite some time.

Commissioner Lewicki moved to authorize Executive Director Hazen to proceed with his recommendation of mindSHIFT to provide us with IT services.

Commissioner MacDonald seconded the motion

Discussion- Commissioner Servino stated he is fine with this but asked that the questions that have been brought up here be addressed by the Executive Director. Commissioner Widener stated that he agreed with that. Executive Director Hazen summarized that he would answer the Boards questions previously asked that any other questions from the Board be emailed to him by tomorrow. Commissioner Gearin said if the only deciding factor was cost she would like it to be some other factor like location. Executive Director Hazen said that geographic location cannot be a factor due to federal procurement rules. Chair Kleczek stated that she would like the cost of the upcoming recommended changes that will need to be made within

the next 6 to 12 months which is in the ball park of \$20,000, be taken into consideration as it may make the cost of the proposal a totally different number. Commissioner Lewicki said if the \$20,000 was in the budget as an IT expense, so be it, but if it is not in the budget it cannot be done anyway and there would have to be a supplemental budget approved. Executive Director Hazen said there will be a supplemental budget next month to take wages out of the personnel line to be moved into materials and services. Commissioner Gearin noted that the 24 users needs to be corrected and recalculated for each additional user. Commissioner Servino summarized that these are all things we cannot possibly cover and I am confident to leaving this up to the Executive Director for his final decision and he is well aware that he bears a responsibility for making a good decision so I am willing to move forward. Commissioner Lewicki called the question and Chair Kleczek called for the vote.

Commissioner Lewicki- Aye  
Commissioner Widener- Aye  
Commissioner MacDonald- Aye  
Commissioner Gearin- Aye  
Commissioner Servino Aye  
Chair Kleczek- Nay  
Motion Passed

- c. Transcription Update-  
Executive Director Hazen will send copies of the transcribed minute examples to the Board once he receives all 3 examples.
- d. QuickBooks Update-  
Executive Director Hazen verified with Konner that we are being backed up in the cloud.
- e. Used Bus Purchases-  
Executive Director Hazen said the new used buses ride very well. The buses seat 35 and have additional room for 42 riders to stand. Executive Director Hazen invited the Board outside to see and take a quick ride on one following the meeting.
- f. Internal Revenue Service-  
Executive Director Hazen reviewed the long process of waiting for the IRS to finalize the refund of a fine we had paid and were excused from. Chair Kleczek asked that Ronald Bline's name be removed from the IRS mailing contact and replaced with current contact information.
- g. Website Update-  
Executive Director Hazen reported that we are moving forward with building the web platform. Chair Kleczek requested that in the meantime we continue updating our website and replacing stock photos with our own photos.

## 9. NEW BUSINESS

- a. Executive Director Annual Review Process Discussion  
Executive Director Hazen asked that the Board give direction setting a date and processing. Board direction included having the Evaluation Committee and Tami from Human Resources work together and the following instructions-
  1. Executive Director Evaluation will take place at the December 8<sup>th</sup> Board meeting
  2. Executive Director Evaluating Committee Meeting to be scheduled in October
  3. Tami will present policies, procedures and examples of evaluation forms to the Evaluation Committee
  4. Tami to include the wage comparison study from January 2016 in meeting forms
- b. Set Date: Board Policy Committee Meeting
  1. Set a date with a doodle poll to choose date in October
  2. Review the existing policies
  3. Develop new policies
  4. Board please send policy suggestions to Executive Director Hazen
- c. Drive Less Connect Presentation-  
Shasia Fry, Transportation Options Specialist presented the 2016 Drive Less Connect challenge overview. The challenge will run from October 1 thru October 15 and is supported by ODOT. Everyone can participate by signing up on the Drive Less website. In 2015 there were 715 new users that logged in and there are overall 29,000 people logged into the website. The goal is to encourage people to choose healthy, green travel options for work, school and play, plus add some fun into participant's daily routine. Participants are encouraged to burn calories instead of gas by biking to work, walking to the store or telecommuting and working at home. Participants are eligible to win prizes by logging their activities. Shasia will be doing a lot of outreach in Tillamook and Columbia County while

riding the bus and signing riders up. Posters will be put up throughout the region and flyers have been inserted in the local papers.

- d. Transit Asset Management: Designation of Accountable Executive- Executive Director Hazen reviewed the Federal Transit Agencies Transit Asset management plan and the need for the District to appoint an Accountable Executive.
  - Commissioner Gearin moved to nominate Executive Director Hazen as the designated Accountable Executive
  - Commissioner Lewicki seconded the motion
  - Discussion- Chair Kleczek reminded
  - Motion passed unanimously

10. CORRESPONDENCE-

- a. Oregon Public Transportation Plan- Executive Director Hazen encouraged Board members to participate either through the online open house or by attending the upcoming meetings scheduled in the Portland area.
- b. Oregon State University Extension- Invitation to attend the forestry demonstration.

11. EXECUTIVE DIRECTOR REPORT- Executive Director Hazen reviewed the report presented.

12. LEADERSHIP TEAM REPORTS- Reports submitted for June 2016: Operations- Scott Earls, Rider Reports- John Layton, Ride Assist- Jennifer Geisler, Mobility Management- Shana Verley, Transportation Options-Shasia Fry, Information Technology- John Layton, Marketing and Outreach- Mary Parker, RideCare- Jason Jones and Human Resources- Tami Carlson.

13. PUBLIC COMMENT- Donna Lynch stated that she was sorry to take up more time but she felt that this is very important. Donna challenged everyone to call RideCare 3 times in one day and average what the wait time on hold is. Donna said it should be around 10 minutes. Donna also stated that the accounting information discussed today indicated there is some wiggle room in the transit budget, and suggested that more people be hired to answer the phones as the girls are run ragged and are so stressed. They need more help down there. Donna stated she did not know who is responsible for that but as a member of the public that uses RideCare all the time, they need more help. Donna was encouraged to contact Executive Director Hazen.

14. OTHER ITEMS-

An audio recording of the Sunset Empire Transportation District's September 2016 Board Meeting is available at: [www.ridethebus.org](http://www.ridethebus.org)-Board of Commissioners- Monthly Meeting Minutes- September 22, 2016.

Meeting was adjourned at 11:00 AM

Mary Parker, Recording Secretary

\_\_\_\_\_  
Commissioner Carol Gearin, Secretary/Treasurer

Date \_\_\_\_\_

*Mission Statement*

Provide safe, reliable, relevant and sustainable transportation services to Clatsop County with professionalism, integrity and courtesy.

# Sunset Empire Transportation District

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## SEPTEMBER FINANCIAL EXCEPTIONS & INFORMATION REPORT

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For the October 2016 Board of Commissioner's Meeting

NOTE on Reviewing Financials: 3 Month = 25.0 % of Fiscal Year Budget\*

### Preliminary General Fund Profit and Loss

The District's General Fund Total YTD Income was \$252,477 (\$56,137 better than budget), 8.25% of annual budget and 99.28% of monthly budget. YTD Total Materials & Services was \$83,349 (\$119,574 less than budget), 9.98% of annual budget and 35.95% of monthly budget. Other Expense reflect the delivery of two new buses in September. These are capital items, budget reflects \$95,000 which is the estimated cost of one bus in September with the second bus budgeted for October delivery.

### Revenue

- 4000 Fares: Revenues for the month of \$46,256 are \$5,131 better than budget.
- 4090 Donations/Commissions: Employee tips.
- 4100 Contract Service-IGA: Cannon Beach billed for September Monthly Service.
- 4200 Property Tax: Reflects prior period tax revenues.
- 4272 Parking: One parking spot remains open, one person showed interest but never returned. We have distributed a flyer to the businesses in the area to let them know there is a parking space available
- 4300 Interest: Effective July 27, 2016 LGIP increased their interest to .92% from (.875%). Fund savings are deposited into LGIP. The period July to Oct is a slow revenue period thus we draw on LGIP. This is September 2016 interest.

### Expense

- 6200 Payroll Expense: Over budget the result of making the second quarterly workers compensation payment in September due on October 1, 2016 (\$7,139.64 in total).
- 7000 Provider Payments: Reimbursement to Vets volunteer driver program. Program is gearing up
- 8005 Audit: Progress payment for the 2016 Audit.
- 8020 Bldg & Grounds Maint: The result of late billing by CRS (Coastal Rehabilitation Services) for the Seaside Kiosk and bus shelters. Back billing from February 2016 to August 2016.
- 8030 Comp-Info -Tech Services: Includes, two payments for Micro Soft Office 365 Email license. This is a monthly fee of about \$460 per month.
- 8061 Equipment Lease: Budget included 2 leased buses for September 2016 at \$5,000 each per month. The buses were not needed as we purchased two used buses.
- 8070 Employee Recognition: Included are Employee BBQ \$188, employee of the quarter incentives \$40, flowers \$57, food for events \$110.
- 8075 Fuel: Reflects actuals paid in September. One provide was received and included in this report. Also prices continue below budgeted amounts Unleaded prices are about \$2.10 and Bio diesel about \$1.80
- 8080 Insurance: October installment payment for Property and General Liability insurance.
- 8120 Office Supplies: Over budget by \$72 for the month but under budget YTD by \$395.
- 8130 Payroll Processing Fee: Includes September 2016 PR Fees.
- 8155 Telephone/Internet: Reflects the result of General Fund (GF) having larger share of the CoastCom services than budgeted. The GF was budgeted 25% of expenses and September reflects an actual usage of 30%. Overall the billing in on budget with Ride Care being better than budget.

**\*Disclaimer:** The percentage of the year's budget cited above is just to be used as a basic benchmark for the fiscal year. Individual budget line items will vary based on expenditure time cycles. Items such as Fuel, Wages, & Bldg. Grounds and Maintenance are more consistent on a monthly basis and can be used to gauge against the percentage. However, other items such as Insurance and Legal Counsel have irregular payment cycles and therefore are not as good to judge against the percentage.

**Sunset Empire Transportation District**  
**SEPTEMBER FINANCIAL EXCEPTIONS & INFORMATION REPORT**  
**For the October 2016 Board of Commissioner's Meeting**

- 9700 Capital Expenses: Payment for one new bus was budgeted. Payment is expected to take place October for both new buses. The two new buses were received in September 2016.
- END

**Ride Care Fund Profit and Loss**

Ride Care's total Income is 21.51% of total budget. YTD revenues of \$739,852 are \$87,147 less than Budget. Which is the result of receiving \$73,058 less from CPCCO than budgeted. The 2016 budget assumed continued growth of 10.5% for the year. Actuals are showing a decline in membership over the last 5 months (April to Sept 2016) of 8.07%. This is the result of the CPCCO reviewing eligibility files and screening members. It is expected that membership will drop by about 10% over the next year. As a result, we will be preparing a budget supplement for the December Board meeting to address this and other issues. YTD reimbursements from OHA and DHS has been \$30,000 vs budget of \$43,000. Reimbursements have just started for this fiscal year. YTD Interest Income of \$2,544 was \$1,044 better than budgeted partly the result of an increase in the interest rate to .92% from .875% in July. YTD Materials & Services of \$573,100 are \$138,074 less than budget and are 18.48% of YTD budget. This was aided by a 4<sup>th</sup> quarter settlement of \$47,697 which resulted from the accrual process at year end.

***Expense***

- 7000 Contract Providers: Over budget the result of back billing in the month as agencies work through there turnover issues (Tillamook) and issues at Colombia County Rider which results in them taking less rides at a lower cost and these rides being provided by a more expensive carrier.
- 7050 DMAP/CPCCO Annual Adjustment: Reflects a 4<sup>th</sup> quarter refund settlement which resulted from year end accruals. It is expected we will need to refund to CPCCO the 1<sup>st</sup> quarter settlement.
- 8045 Drug/Alcohol Background: The result of background checks for 3 Wapato drivers and one new driver.
- 8055 Durable Equip/Small Tools: Reflects Sound proof panels for Ride Care and a new Computer.
- Insurance: RC share of property and general liability payment
- 8155 Telephone/Internet Service: Is better than budget the result of RC actuals representing 70% of the Coastcom service while budgeted at 75%. Overall telephone is under budget and YTD include Oct prepayment when you include General Fund.

**\*Disclaimer:** The percentage of the year's budget cited above is just to be used as a basic benchmark for the fiscal year. Individual budget line items will vary based on expenditure time cycles. Items such as Fuel, Wages, & Bldg. Grounds and Maintenance are more consistent on a monthly basis and can be used to gauge against the percentage. However, other items such as Insurance and Legal Counsel have irregular payment cycles and therefore are not as good to judge against the percentage.

**Sunset Empire Transportation  
Profit & Loss Budget Performance General Fund  
September 2016**

	<u>Month Actual</u>	<u>Month Budget</u>	<u>YTD Actual</u>	<u>YTD Budget</u>	<u>YTD Budget to YTD Actual</u>	<u>Annual Budget</u>	<u>YTD Act to Budget</u>
YTD Actual % Budget Target: 25.00%					Better		
Ordinary Income/Expense					(Worse)		
<b>Income</b>							
4000 FARES	46,256.43	41,125.00	95,578.23	89,875.00	5,703.23	268,300.00	35.62%
4090 DONATIONS/COMMISSIONS	78.29	0.00	210.95	150.00	60.95	600.00	35.16%
4100 CONTRACTED SERVICES-IGA	7,266.00	8,625.00	21,557.00	25,489.00	(3,932.00)	180,917.00	11.92%
4200 TAXES	4,689.63	9,000.00	15,139.11	9,000.00	6,139.11	925,000.00	1.64%
4250 TIMBER SALES	0.00	0.00	88,174.59	40,000.00	48,174.59	160,000.00	55.11%
4260 MASS TRANSIT ASSESSMENT	0.00	0.00	0.00	0.00	0.00	55,000.00	0.00%
4270 RENTAL INCOME					0.00		
4271 BILLBOARD LEASE	0.00	0.00	0.00	0.00	0.00	1,200.00	0.00%
4272 PARKING SPACES	712.50	760.00	2,137.50	2,280.00	(142.50)	9,120.00	23.44%
4273- Charging Station	0.00	0.00	0.00	0.00	0.00	160.00	0.00%
4270 RENTAL INCOME - Other	0.00	0.00	0.00	0.00	0.00	0.00	
<b>Total 4270 RENTAL INCOME</b>	<b>712.50</b>	<b>760.00</b>	<b>2,137.50</b>	<b>2,280.00</b>	<b>(142.50)</b>	<b>10,480.00</b>	<b>20.40%</b>
4300 INTEREST	475.67	400.00	1,218.79	1,200.00	18.79	4,800.00	25.39%
4310 MISC INCOME	0.00		25.00		25.00		
5000 GRANTS	0.00	0.00	0.00	0.00	0.00	1,128,379.00	0.00%
5080 OREGON STF FUNDS	0.00	0.00	28,436.00	28,346.00	90.00	328,560.00	8.65%
<b>Total Income</b>	<b>59,478.52</b>	<b>59,910.00</b>	<b>252,477.17</b>	<b>196,340.00</b>	<b>56,137.17</b>	<b>3,062,036.00</b>	<b>8.25%</b>
<b>Gross Profit</b>	<b>59,478.52</b>	<b>59,910.00</b>	<b>252,477.17</b>	<b>196,340.00</b>	<b>56,137.17</b>	<b>3,062,036.00</b>	<b>8.25%</b>
<b>Expense</b>							
<b>1. PERSONNEL SERVICES</b>							
6005 SALARIES & WAGES	94,902.88	100,496.00	277,771.06	291,823.00	14,051.94	1,243,631.00	22.34%
6200 PAYROLL EXPENSES	14,264.40	13,726.00	36,951.78	37,358.00	406.22	153,610.00	24.06%
6300 EMPLOYEE BENEFITS	21,206.34	24,599.00	63,176.72	73,793.00	10,616.28	295,166.00	21.40%
<b>Total 1. PERSONNEL SERVICES</b>	<b>130,373.62</b>	<b>138,821.00</b>	<b>377,899.56</b>	<b>402,974.00</b>	<b>25,074.44</b>	<b>1,692,407.00</b>	<b>22.33%</b>
<b>2. MATERIALS &amp; SERVICES</b>							
7000 RC PROVIDER PAYMENTS	274.59	1,479.00	547.10	4,437.00	3,889.90	17,750.00	3.08%
7030 BUS PASSES	0.00	340.00	0.00	1,020.00	1,020.00	4,080.00	0.00%
8005 AUDIT	1,020.00	1,000.00	1,600.00	4,000.00	2,400.00	26,160.00	6.12%
8006 ADS (HR JOB POSTING)	0.00	350.00	290.17	1,050.00	759.83	4,200.00	6.91%
8010 BANK FEES	268.79	250.00	534.08	750.00	215.92	3,005.00	17.77%
8020 BLDING & GROUNDS MAINT	2,567.67	2,114.00	4,991.89	6,342.00	1,350.11	25,373.00	19.67%
8030 COMP-INFO-TECH SERVICES	1,228.33	1,023.00	5,473.88	4,046.00	(1,427.88)	26,237.00	20.86%
8035 CONF TRAINING & TRAVEL	2,049.02	4,310.00	1,898.39	7,718.00	5,819.61	37,042.00	5.12%
8045 DRUG/ALCOHOL/BG CHECKS	55.00	267.00	411.61	797.00	385.39	3,200.00	12.86%
8050 DUES SUBSCRIPTIONS & FEES	241.66	300.00	3,102.67	2,750.00	(352.67)	9,280.00	33.43%
8053 IGA - DUES AND FEES	0.00	1,675.00	0.00	4,175.00	4,175.00	16,700.00	0.00%
8055 DURABLE EQUIP/SMALL TOOLS	97.49	2,650.00	357.48	4,650.00	4,292.52	16,750.00	2.13%
8061 EQUIPMENT LEASE/RENT	426.21	10,458.00	1,544.42	11,378.00	9,833.58	25,500.00	6.06%
8065 EDUCATION/OUTREACH	88.91	7,038.00	1,557.45	14,076.00	12,518.55	39,510.00	3.94%
8070 EMPLOYEE RECOGNITION	394.91	0.00	394.91	100.00	(294.91)	4,000.00	9.87%
8072 Election Fees	0.00	0.00	0.00	0.00	0.00	4,000.00	0.00%
8075 FUEL	5,098.89	19,897.00	19,028.48	59,691.00	40,662.52	238,772.00	7.97%
8080 INSURANCE	9,233.00	2,660.00	9,233.00	14,201.00	4,968.00	56,142.00	16.45%
8090 LEGAL ADS	200.00	100.00	200.00	100.00	(100.00)	800.00	25.00%
8095 LEGAL COUNSEL	0.00	500.00	0.00	1,000.00	1,000.00	6,400.00	0.00%
8100 MEETING EXPENSE	196.90	200.00	196.90	400.00	203.10	1,400.00	14.06%



8120 OFFICE SUPPLIES	1,272.33	1,200.00	3,704.52	4,100.00	395.48	15,450.00	23.98%
8130 PAYROLL PROCESSING FEES	175.00	240.00	408.80	560.00	151.20	2,080.00	19.65%
8135 PRINTING	358.22	4,425.00	531.10	8,850.00	8,318.90	33,950.00	1.56%
8139 PROFESSIONAL SERVICES	336.30	4,875.00	336.30	9,753.00	9,416.70	32,850.00	1.02%
8140 SUBGRANT PASS THROUGH	0.00	0.00	0.00	0.00	0.00	15,000.00	0.00%
8150 TAXES/LICENSES/BUS REG FEE	0.00	0.00	0.00	0.00	0.00	330.00	0.00%
8155 TELEPHONE/INTERNET SERVICE	1,881.42	1,775.00	6,875.02	5,325.00	(1,550.02)	21,296.00	32.28%
8160 UNIFORMS	164.50	550.00	427.70	974.00	546.30	5,924.00	7.22%
8165 UTILITIES	1,178.91	1,530.00	2,929.89	4,680.00	1,750.11	21,667.00	13.52%
8170 VEHICLE MAINT & REPAIRS	385.45	10,000.00	16,773.73	26,000.00	9,226.27	120,200.00	13.95%
<b>Total 2. MATERIALS &amp; SERVICES</b>	<b>29,193.50</b>	<b>81,206.00</b>	<b>83,349.49</b>	<b>202,923.00</b>	<b>119,573.51</b>	<b>835,048.00</b>	<b>9.98%</b>
<b>Total Expense</b>	<b>159,567.12</b>	<b>220,027.00</b>	<b>461,249.05</b>	<b>605,897.00</b>	<b>144,647.95</b>	<b>2,527,455.00</b>	<b>18.25%</b>
<b>Net Ordinary Income</b>	<b>-100,088.60</b>	<b>-160,117.00</b>	<b>-208,771.88</b>	<b>-409,557.00</b>	<b>200,785.12</b>	<b>534,581.00</b>	<b>-39.05%</b>
<b>Other Income/Expense</b>							
<b>Other Expense</b>							
<b>3. OTHER EXPENSES</b>							
9610 CLATSOP BANK-PRINCIPAL	5,453.44	5,419.92	16,202.53	16,216.47	13.94	66,421.11	24.39%
9611 CLATSOP BANK-LOAN INT	1,120.06	1,153.58	3,517.97	3,504.03	(13.94)	12,460.89	28.23%
<b>Total 3. OTHER EXPENSES</b>	<b>6,573.50</b>	<b>6,573.50</b>	<b>19,720.50</b>	<b>19,720.50</b>	<b>0.00</b>	<b>78,882.00</b>	<b>25.00%</b>
9600 DEBT SERVICE & INTERES-FEE	0.00	0.00	0.00	0.00	0.00	334.00	0.00%
9625 SDAO FLEXLEASE-PRINCIPAL	0.00	0.00	0.00	0.00	0.00	38,000.00	0.00%
9626 SDAO FLEXLEASE-INTEREST	0.00	0.00	0.00	0.00	0.00	8,778.00	0.00%
9700 CAPITAL EXPENSE	187,722.00	95,000.00	187,931.00	95,000.00	(92,931.00)	797,000.00	23.58%
9800 CONTINGENCY	0.00	0.00	0.00	0.00	0.00	106,104.00	0.00%
9850 TRANSFER OUT	0.00	0.00	0.00	0.00	0.00	0.00	
<b>Total Other Expense</b>	<b>194,295.50</b>	<b>101,573.50</b>	<b>207,651.50</b>	<b>114,720.50</b>	<b>(92,931.00)</b>	<b>1,029,098.00</b>	<b>20.18%</b>
<b>Net Other Income</b>	<b>-194,295.50</b>	<b>-101,573.50</b>	<b>-207,651.50</b>	<b>-114,720.50</b>	<b>(92,931.00)</b>	<b>-1,029,098.00</b>	<b>20.18%</b>
<b>Net Income</b>	<b>-294,384.10</b>	<b>-261,690.50</b>	<b>-416,423.38</b>	<b>-524,277.50</b>	<b>107,854.12</b>	<b>-494,517.00</b>	<b>84.21%</b>

**Sunset Empire Transportation  
Profit & Loss Budget Performance RideCare  
September 2016**

	Month Actual	Month Budget	YTD Actual	YTD Budget	YTD Budget to YTD Actual	Annual Budget	YTD Act to Budget
YTD Actual % Budget Target: 25.00%					Better		
Ordinary Income/Expense					(Worse)		
Income							
4300 INTEREST	852.82	500.00	2,543.51	1,500.00	1,043.51	6,000.00	42.39%
4500 RC PROVIDER SERVICE REIM	262,176.02	277,546.00	737,308.98	825,499.00	(88,190.02)	3,434,370.00	21.47%
Other Types of Income	0.00	0.00	0.00	0.00	0.00	0.00	
<b>Total Income</b>	<b>263,028.84</b>	<b>278,046.00</b>	<b>739,852.49</b>	<b>826,999.00</b>	<b>(87,146.51)</b>	<b>3,440,370.00</b>	<b>21.51%</b>
<b>Gross Profit</b>	<b>263,028.84</b>	<b>278,046.00</b>	<b>739,852.49</b>	<b>826,999.00</b>	<b>(87,146.51)</b>	<b>3,440,370.00</b>	<b>21.51%</b>
Expense							
1. PERSONNEL SERVICES							
6005 SALARIES & WAGES	28,256.36	32,991.93	76,362.00	86,981.42	10,619.42	350,930.63	21.76%
6200 PAYROLL EXPENSES	4,002.81	4,415.93	9,844.99	11,370.51	1,525.52	45,204.75	21.78%
6300 EMPLOYEE BENEFITS	4,621.89	11,238.70	13,450.80	26,223.66	12,772.86	97,402.22	13.81%
<b>Total 1. PERSONNEL SERVICES</b>	<b>36,881.06</b>	<b>48,646.56</b>	<b>99,657.79</b>	<b>124,575.59</b>	<b>24,917.80</b>	<b>493,537.60</b>	<b>20.19%</b>
2. MATERIALS & SERVICES							
7000 RC PROVIDER PAYMENTS	244,272.31	224,880.00	593,254.47	668,678.00	75,423.53	2,781,506.00	21.33%
7030 BUS PASSES	272.50	1,500.00	2,487.50	4,500.00	2,012.50	18,000.00	13.82%
7050 DMAP/CCO Annual Adjustmer	-47,696.76	0.00	-47,696.76	0.00	47,696.76	140,000.00	-34.07%
8005 AUDIT	255.00	0.00	400.00	340.00	(60.00)	6,540.00	6.12%
8006 ADS (HR JOB POSTING)	177.94	200.00	468.58	500.00	31.42	2,000.00	23.43%
8010 BANK FEES	10.00	15.00	30.00	43.00	13.00	171.00	17.54%
8020 BLDING & GROUNDS MAINT	632.69	682.00	1,199.30	2,047.00	847.70	8,190.00	14.64%
8025 BUS PASSES	0.00	0.00	0.00	0.00	0.00	0.00	
8030 COMP-INFO-TECH SERVICES	239.99	634.00	469.15	1,902.00	1,432.85	7,609.00	6.17%
8035 CONF TRAINING & TRAVEL	123.20	390.00	-185.95	1,090.00	1,275.95	6,788.00	-2.74%
8045 DRUG/ALCOHOL/BG CHECKS	352.50	100.00	534.00	300.00	(234.00)	1,200.00	44.50%
8050 DUES SUBSCRIPTIONS & FEE	0.00	0.00	4.22	0.00	(4.22)	2,170.00	0.19%
8055 DURABLE EQUIP/SMALL TOC	2,717.50	2,000.00	5,967.50	5,500.00	(467.50)	19,700.00	30.29%
8065 EDUCATION/OUTREACH	0.00	500.00	0.00	600.00	600.00	2,400.00	0.00%
8070 EMPLOYEE RECOGNITION	0.00	0.00	0.00	100.00	100.00	1,800.00	0.00%
8072 Election Fees	0.00	0.00	0.00	0.00	0.00	1,000.00	0.00%
8080 INSURANCE	2,308.25	1,430.00	2,308.25	1,430.00	(878.25)	5,742.00	40.20%
8090 LEGAL ADS	0.00	100.00	0.00	100.00	100.00	500.00	0.00%
8095 LEGAL COUNSEL	0.00	0.00	0.00	0.00	0.00	200.00	0.00%
8100 MEETING EXPENSE	20.91	100.00	20.91	300.00	279.09	1,200.00	1.74%
8120 OFFICE SUPPLIES	559.61	337.00	1,117.20	1,211.00	93.80	4,050.00	27.59%
8130 PAYROLL PROCESSING FEES	43.75	60.00	102.20	140.00	37.80	520.00	19.65%
8135 PRINTING	4.37	250.00	4.37	750.00	745.63	3,000.00	0.15%
8139 PROFESSIONAL SERVICES	0.00	9,560.00	447.00	10,000.00	9,553.00	40,000.00	1.12%
8155 TELEPHONE/INTERNET SERV	2,727.01	3,266.00	10,869.21	9,796.00	(1,073.21)	39,184.00	27.74%
8165 UTILITIES	585.72	609.00	1,299.06	1,847.00	547.94	8,339.00	15.58%
<b>Total 2. MATERIALS &amp; SERVICES</b>	<b>207,606.49</b>	<b>246,613.00</b>	<b>573,100.21</b>	<b>711,174.00</b>	<b>138,073.79</b>	<b>3,101,809.00</b>	<b>18.48%</b>
<b>Total Expense</b>	<b>244,487.55</b>	<b>295,259.56</b>	<b>672,758.00</b>	<b>835,749.59</b>	<b>162,991.59</b>	<b>3,595,346.60</b>	<b>18.71%</b>
<b>Net Ordinary Income</b>	<b>18,541.29</b>	<b>-17,213.56</b>	<b>67,094.49</b>	<b>-8,750.59</b>	<b>75,845.08</b>	<b>-154,976.60</b>	<b>143.29%</b>
Other Income/Expense							
Other Expense							
3. OTHER EXPENSES							
9611 CLATSOP BANK-LOAN INT	0.00	0.00	0.00	0.00	0.00	0.00	
<b>Total 3. OTHER EXPENSES</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	
9600 DEBT SERVICE & INTERES-FEE	0.00	0.00	0.00	0.00	0.00	106.00	0.00%
9625 SDAO FLEXLEASE-PRINCIPAL	0.00	0.00	0.00	0.00	0.00	12,000.00	0.00%
9626 SDAO FLEXLEASE-INTEREST	0.00	0.00	0.00	0.00	0.00	2,772.00	0.00%
9655 DMAP REPAYMENT AGREEMENT	0.00	36,343.00	36,343.25	36,343.00	(0.25)	145,373.00	25.00%
9800 CONTINGENCY	0.00	0.00	0.00	0.00	0.00	200,000.00	0.00%
<b>Total Other Expense</b>	<b>0.00</b>	<b>36,343.00</b>	<b>36,343.25</b>	<b>36,343.00</b>	<b>(0.25)</b>	<b>360,251.00</b>	<b>10.09%</b>
<b>Net Other Income</b>	<b>0.00</b>	<b>-36,343.00</b>	<b>-36,343.25</b>	<b>-36,343.00</b>	<b>(0.25)</b>	<b>-360,251.00</b>	<b>10.09%</b>
<b>Net Income</b>	<b>18,541.29</b>	<b>-53,556.56</b>	<b>30,751.24</b>	<b>-45,093.59</b>	<b>75,844.83</b>	<b>-515,227.60</b>	<b>105.97%</b>

**Sunset Empire Transportation  
Balance Sheet  
As of September 30, 2016**

ASSETS		LIABILITIES & EQUITY	
Current Assets		Liabilities	
Checking/Savings		Current Liabilities	
1000 SETD GEN FUND BANK ACCTS		Accounts Payable	
1001 CCB-OPERATING (3943)	227,777.39	2000 ACCOUNTS PAYABLES	
1002 CCB-PAYROLL (3950)	2,186.63	2010 SETD GENERAL FUND A/P	193,018.91
1005 CCB-VEHICLE SALES ACCT	2,202.18	2020 RIDE CARE FUND A/P	65,353.82
1015 HRA FISCAL AGENT	1,592.08	<b>Total 2000 ACCOUNTS PAYABLES</b>	<b>258,372.73</b>
1020 LGIP (4992)	245,459.23	<b>Total Accounts Payable</b>	<b>258,372.73</b>
1030 CAPITAL RESERVE FUND	75,323.56	Other Current Liabilities	67,909.88
<b>Total 1000 SETD GEN FUND BANK ACCTS</b>	<b>554,541.07</b>	<b>Total Current Liabilities</b>	<b>326,282.61</b>
1040 TILLS	300.00	Long Term Liabilities	
1050 RIDE CARE FUND BANK ACCTS		2800 INTERCOMPANY DUE TO/FROM	
1051 CCB-RC OPERATING (3976)	202,805.06	2810 DUE TO RIDE CARE	435,063.82
1055 HRA FISCAL AGENT (RC)	507.92	2815 DUE TO/(FROM) SETD G F	-435,063.82
1056 RC LGIP (3959)	1,109,654.95	<b>Total 2800 INTERCOMPANY DUE TO/FROM</b>	<b>0.00</b>
<b>Total 1050 RIDE CARE FUND BANK ACCTS</b>	<b>1,312,967.93</b>	<b>Total Long Term Liabilities</b>	<b>0.00</b>
<b>Total Checking/Savings</b>	<b>1,867,809.00</b>	<b>Total Liabilities</b>	<b>326,282.61</b>
Accounts Receivable		Equity	
1200 ACCOUNTS RECEIVABLES	32,132.50	3000 OPENING BALANCE EQUITY	651,014.34
1250 PROPERTY TAX RECEIVABLES	36,439.12	3100 NWRC PRIOR PERIOD ADJUST	-136,476.00
<b>Total Accounts Receivable</b>	<b>68,571.62</b>	3900 RETAINED EARNINGS	1,508,253.53
Other Current Assets	27,021.72	Net Income	-385,672.14
<b>Total Current Assets</b>	<b>1,963,402.34</b>	<b>Total Equity</b>	<b>1,637,119.73</b>
<b>TOTAL ASSETS</b>	<b>1,963,402.34</b>	<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>1,963,402.34</b>

**Sunset Empire Transportation  
Accounts Receivable  
As of September 30, 2016**

	<u>Current</u>	<u>1 - 30</u>	<u>31 - 60</u>	<u>61 - 90</u>	<u>&gt; 90</u>	<u>TOTAL</u>
CCC	480.00	0.00	0.00	0.00	0.00	480.00
CITY OF CANNON BEACH - A/R	7,266.00	0.00	0.00	0.00	0.00	7,266.00
CLATSOP COUNTY TREASURER	0.00	0.00	0.00	0.00	36,439.12	36,439.12
CLATSOP CRUISE HOSTS	21,947.00	0.00	0.00	0.00	0.00	21,947.00
DHS - CHILD WELFARE-CLATSOP	0.00	567.00	0.00	0.00	0.00	567.00
HULTQUIST, JUANITA 3	0.00	0.00	0.00	0.00	0.00	0.00
ISN	0.00	0.00	0.00	0.00	-330.00	-330.00
ODOT	0.00	0.00	0.00	0.00	0.00	0.00
OR DHS - ASTORIA - SSP/0401	0.00	0.00	0.00	0.00	0.00	0.00
OR TREASURY	0.00	0.00	0.00	-33,749.28	33,749.28	0.00
P-ALLSTATE INSURANCE AGENCY	142.50	0.00	142.50	0.00	0.00	285.00
P-ANDI WARREN INSURANCE AGENCY	47.50	0.00	0.00	0.00	0.00	47.50
P-CELLAR ON 10TH, THE	0.00	95.00	0.00	0.00	0.00	95.00
P-FARMHOUSE FUNK	0.00	95.00	0.00	0.00	0.00	95.00
P-H&R Block	142.50	95.00	0.00	0.00	-190.00	47.50
P-HOMESPUN QUILTS	0.00	95.00	0.00	0.00	0.00	95.00
P-HOXIE, RONALD	0.00	47.50	47.50	0.00	0.00	95.00
P-STEINER, MICHELE	0.00	47.50	0.00	0.00	0.00	47.50
PACIFIC NW WORKS	0.00	0.00	0.00	0.00	45.00	45.00
RC-PASSES	1,350.00	0.00	0.00	0.00	0.00	1,350.00
RC-SETD PARA	0.00	0.00	-1,401.00	0.00	1,401.00	0.00
<b>TOTAL</b>	<b><u>31,375.50</u></b>	<b><u>1,042.00</u></b>	<b><u>-1,211.00</u></b>	<b><u>-33,749.28</u></b>	<b><u>71,114.40</u></b>	<b><u>68,571.62</u></b>

**Sunset Empire Transportation  
Accounts Payable  
As of September 30, 2016**

General Fund	Current	1 - 30	31 - 60	61 - 90	> 90	TOTAL
ABECO	21.86	0.00	0.00	0.00	0.00	21.86
ALSCO	98.70	0.00	0.00	0.00	0.00	98.70
BIO-MED TESTING SERVICES, INC	0.00	95.00	0.00	0.00	0.00	95.00
CARD SERVICE CENTER	3,225.32	0.00	0.00	0.00	0.00	3,225.32
CTAA	465.00	0.00	0.00	0.00	0.00	465.00
E- BARTON, ERIC	25.92	0.00	0.00	0.00	0.00	25.92
E-HERNANDEZ, AL	105.30	0.00	0.00	0.00	0.00	105.30
EO MEDIA GROUP	177.94	0.00	0.00	0.00	0.00	177.94
MTR WESTERN BUS	1,134.16	0.00	0.00	0.00	0.00	1,134.16
O'REILLY AUTO PARTS	0.00	-275.38	0.00	0.00	0.00	-275.38
OREGON STATE POLICE	141.50	0.00	0.00	0.00	0.00	141.50
PACIFICSOURCE ADMINISTRATORS	0.00	0.00	-162.50	0.00	162.50	0.00
SDIS	0.00	0.00	-27,491.47	0.00	27,491.47	0.00
VERIZON WIRELESS	764.25	0.00	0.00	0.00	0.00	764.25
WESTERN BUS SALES, INC.	187,722.00	-257.92	0.00	0.00	0.00	187,464.08
<b>TOTAL-General Fund</b>	<b>193,881.95</b>	<b>-438.30</b>	<b>-27,653.97</b>	<b>0.00</b>	<b>27,653.97</b>	<b>193,443.65</b>
<b>Ride Care</b>						
RC-COLUMBIA COUNTY RIDER	3,980.00	0.00	0.00	0.00	0.00	3,980.00
RC-ELLIOTT'S TRANSPORT	3,927.00	0.00	0.00	0.00	0.00	3,927.00
RC-FARMERS CO-OP	2,444.20	0.00	0.00	0.00	0.00	2,444.20
RC-HOT SHOT TRANSPORTATION	5,110.31	0.00	0.00	0.00	0.00	5,110.31
RC-LEE, RYAN	1,267.94	0.00	0.00	0.00	0.00	1,267.94
RC-MEDIX AMBULANCE	6,269.60	3,172.60	0.00	0.00	0.00	9,442.20
RC-METRO WEST AMBULANCE	3,182.00	0.00	0.00	0.00	0.00	3,182.00
RC-OREGON COAST TRANSPORTERS, LLC	1,726.00	0.00	0.00	0.00	0.00	1,726.00
RC-TILLAMOOK COUNTY TRANSPORTATION	20,260.00	0.00	0.00	0.00	0.00	20,260.00
RC-WAPATO SHORES, INC	13,519.43	0.00	0.00	0.00	0.00	13,519.43
RC-WARRENTON MINI MART	57.50	12.50	0.00	0.00	0.00	70.00
<b>Total-Rideacre</b>	<b>61,743.98</b>	<b>3,185.10</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>64,929.08</b>
<b>Total</b>	<b>255,625.93</b>	<b>2,746.80</b>	<b>(27,653.97)</b>	<b>0.00</b>	<b>27,653.97</b>	<b>258,372.73</b>

**Sunset Empire Transportation**  
**Checks Over \$5,000**  
**9/30/2016**

<u>Type</u>	<u>Num</u>	<u>Date</u>	<u>Name</u>	<u>Original Amount</u>
Bill Pmt -Check	3994	09/07/2016	RC-HOT SHOT TRANSPORTATION	-5,218.79
Bill Pmt -Check	3995	09/07/2016	RC-K & M MEDIVAN	-12,313.45
Bill Pmt -Check	3996	09/07/2016	RC-MEDIX AMBULANCE	-5,457.00
Bill Pmt -Check	4000	09/07/2016	RC-WAPATO SHORES, INC	-13,688.89
Bill Pmt -Check	4006	09/14/2016	RC-TILLAMOOK COUNTY TRANSPORTATION	-9,531.75
Bill Pmt -Check	4007	09/14/2016	RC-WAPATO SHORES, INC	-13,803.32
Bill Pmt -Check	4013	09/20/2016	RC-HOT SHOT TRANSPORTATION	-5,111.20
Bill Pmt -Check	4014	09/20/2016	RC-K & M MEDIVAN	-6,712.96
Bill Pmt -Check	4017	09/20/2016	RC-METRO WEST AMBULANCE	-9,466.22
Bill Pmt -Check	4018	09/20/2016	RC-OR DHS	-36,343.25
Bill Pmt -Check	4021	09/20/2016	RC-TILLAMOOK COUNTY TRANSPORTATION	-8,298.75
Bill Pmt -Check	4022	09/20/2016	RC-WAPATO SHORES, INC	-12,132.97
Bill Pmt -Check	4024	09/20/2016	RC-WILCOX & FLEGEL	-5,115.62
Bill Pmt -Check	4035	09/27/2016	RC-TILLAMOOK COUNTY TRANSPORTATION	-11,172.25
Bill Pmt -Check	4037	09/27/2016	RC-WAPATO SHORES, INC	-15,315.47
Bill Pmt -Check	16415	09/20/2016	SDIS	-18,680.89
Bill Pmt -Check	16419	09/20/2016	WILCOX & FLEGEL	-5,090.39
Liability Check	16431	09/30/2016	SDIS	-30,711.33
Check	09302016	09/27/2016	CLATSOP COMMUNITY BANK	-6,573.50

# Bill

Sunset Empire Transportation District  
 ASTORIA, OR. 97103  
 900 Marine Drive

Date	Ref. No.
09/16/2016	0342 8/9-9/7

Vendor
CARD SERVICE CENTER PO BOX 569100 DALLAS TX 75356-9100

**PAID**

Bill Due	10/16/2016
Terms	
Memo	

## Expenses

Account	Memo	Amount	Customer:Job	Class
8173 STOCK PARTS	0220 EARLS OCEAN CREST - BATTERY TRAY #02	149.53		OPER 5311
8070 EMPLOYEE RECOGNITION	FRED MEYER - FOOD FOR EMPLOYEE BBQ	52.46		OPER 5311
8075 FUEL	SHELL OIL - WARRENTON - PROPANE FOR EMPLOYEE BBQ	8.50		OPER 5311
8065 EDUCATION/OUTREACH	0318 FRY PAYPAL - TOGO WORKSHOP FEE	50.00		TRANS OPTIONS
8100 MEETING EXPENSE	HOME BAKING - FOOD FOR BOARD MEETING	22.10		ADMINISTRATION
8100 MEETING EXPENSE	SAFEWAY - FOOD FOR BOARD MEETING	15.18		ADMINISTRATION
8038 TRAVEL	0667 HAZEN MCGRATH'S FISH HOUSE - FOOD FOR JEFF FOR PTAC MEETING	15.99		ADMINISTRATION
8038 TRAVEL	CHEVY'S - FOOD FOR JEFF FOR PTAC MEETING	18.98		ADMINISTRATION
8120 OFFICE SUPPLIES	RED LION - FOOD FOR JEFF FOR PTAC MEETING	97.53		ADMINISTRATION
8100 MEETING EXPENSE	REV.COM - TRANSCRIPTION SERVICE	61.00		ADMINISTRATION
8120 OFFICE SUPPLIES	JACK IN BOX - FOOD FOR JEFF AND SCOTT - TEST DRIVE USED BUS	17.80		ADMINISTRATION
8120 OFFICE SUPPLIES	0261 JONES HOME DEPOT - RETURNED NETWORK CABLE	-5.98	RIDECARE ADMIN	ADMINISTRATION

# Bill

Sunset Empire Transportation District  
 ASTORIA, OR. 97103  
 900 Marine Drive

Date	Ref. No.
09/16/2016	0342 8/9-9/7

Vendor
CARD SERVICE CENTER PO BOX 569100 DALLAS TX 75356-9100

**PAID**

Bill Due 10/16/2016
Terms
Memo

## Expenses

Account	Memo	Amount	Customer:Job	Class
8120 OFFICE SUPPLIES	HOME DEPOT - POWER STRIP	4.97	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	HOME DEPOT - CORD MANAGEMENT SUPPLIES	23.81	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	HOME DEPOT - NETWORK CABLE	11.98	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	HOME DEPOT - FAN AND CORD MANAGEMENT SUPPLIES	51.72	RIDECARE ADMIN	ADMINISTRATION
8038 TRAVEL	SUBWAY - FOOD FOR JASON AND CHARLIE FOR PROVIDER VISIT	17.90	RIDECARE ADMIN	ADMINISTRATION
8057 OFFICE FURNITURE & EQUIP	STAPLES - CHAIR FOR RIDECARE	99.99	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.75	RIDECARE ADMIN	ADMINISTRATION
8056 COMPUTER HARDWARE	LENOVO - NEW COMPUTER	538.50	RIDECARE ADMIN	ADMINISTRATION
7030 BUS PASSES	TRIMET - BUS PASSES FOR CLIENT	52.50	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.70	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.70	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.70	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.70	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.70	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.70	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	AMAZON - BATTERY FOR HEADSET	9.70	RIDECARE ADMIN	ADMINISTRATION
	0334 LAYTON			



# Bill

Sunset Empire Transportation District  
 ASTORIA, OR. 97103  
 900 Marine Drive

Date	Ref. No.
09/16/2016	0342 8/9-9/7

Vendor
CARD SERVICE CENTER PO BOX 569100 DALLAS TX 75356-9100

**PAID**

Bill Due	10/16/2016
Terms	
Memo	

## Expenses

Account	Memo	Amount	Customer:Job	Class
8050 DUES SUBSCRIPTIONS & FEES	CALACT - REFUND - CONFERENCE FEE	-440.00		MOBILITY MANAGEMENT ADMINISTRATION
8031 WEBSITE/ON-LINE SW SUB	ADOBE - SOFTWARE SUBSCRIPTION	34.98		ADMINISTRATION
8031 WEBSITE/ON-LINE SW SUB	MICROSOFT - EMAIL SUBSCRIPTION	465.92		ADMINISTRATION
8121 POSTAGE-SHIPPING	USPS - STAMPS	94.00		ADMINISTRATION
8050 DUES SUBSCRIPTIONS & FEES	0204 PARKER REFUND OF SDAO CLASS FEE	-50.00		ADMINISTRATION
8051 Late Fees Interest Charge	INTEREST CHARGE	48.61		ADMINISTRATION

Expense Total : 1,525.92

**Bill Total : \$1,525.92**

# Bill

Sunset Empire Transportation District  
 ASTORIA, OR. 97103  
 900 Marine Drive

Date	Ref. No.
09/01/2016	0342 7/9 - 8/8

Vendor
CARD SERVICE CENTER PO BOX 569100 DALLAS TX 75356-9100

**PAID**

Bill Due 10/01/2016
Terms
Memo

## Expenses

Account	Memo	Amount	Customer:Job	Class
8060 OTHER DURABLE GOODS	0220 EARLS FRED MEYER - BIKE TO REPLACE RIDER'S BIKE WE BROKE	97.49		OPER 5311
8070 EMPLOYEE RECOGNITION	FRED MEYER - FOOD FOR KONNOR GOING AWAY PARTY	18.70		OPER 5311
8120 OFFICE SUPPLIES	STAPLES - DAY PASSES	212.10		OPER 5311
8065 EDUCATION/OUTREACH	0318 FRY FACEBOOK - ADS	30.83		TRANS OPTIONS
8120 OFFICE SUPPLIES	FRED MEYER - OFFICE SUPPLIES	3.99		TRANS OPTIONS
8038 TRAVEL	SUNSET EMPIRE TRANSPORTATION - BUS TICKET FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION...	18.00		TRANS OPTIONS
8038 TRAVEL	JOES BURGERS - FOOD FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	6.75		TRANS OPTIONS
8065 EDUCATION/OUTREACH	FACEBOOK - ADS	8.08		TRANS OPTIONS
8038 TRAVEL	TRIMET - BUS TICKET FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	5.00		TRANS OPTIONS

# Bill

Sunset Empire Transportation District  
 ASTORIA, OR. 97103  
 900 Marine Drive

Date	Ref. No.
09/01/2016	0342 7/9 - 8/8

Vendor
CARD SERVICE CENTER PO BOX 569100 DALLAS TX 75356-9100

**PAID**

Bill Due	10/01/2016
Terms	
Memo	

## Expenses

Account	Memo	Amount	Customer:Job	Class
8038 TRAVEL	EINSTEIN BROS BAGELS - FOOD FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	6.98		TRANS OPTIONS
8038 TRAVEL	ARAMARK UNIVERSITY - FOOD FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	12.00		TRANS OPTIONS
8038 TRAVEL	TRIMET - BUS TICKET FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	5.00		TRANS OPTIONS
8038 TRAVEL	PIZZICATO DOWNTOWN - FOOD FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	14.00		TRANS OPTIONS
8038 TRAVEL	UNIVERSITY PLACE - FOOD FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	45.00		TRANS OPTIONS
8038 TRAVEL	STARBUCKS - FOOD FOR SHASIA TO ASSOCIATION FOR COMMUTER TRANSPORTATION CONFERENCE	5.00		TRANS OPTIONS

# Bill

Sunset Empire Transportation District  
 ASTORIA, OR. 97103  
 900 Marine Drive

Date	Ref. No.
09/01/2016	0342 7/9 - 8/8

Vendor
CARD SERVICE CENTER PO BOX 569100 DALLAS TX 75356-9100

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Bill Due	10/01/2016
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Memo	

## Expenses

Account	Memo	Amount	Customer:Job	Class
8038 TRAVEL	0667 HAZEN ABBY'S PIZZA - FOOD FOR JEFF AT PTAC MEETING	11.95		ADMINISTRATION
8038 TRAVEL	JACK IN THE BOX - FOOD FOR JEFF AT PTAC MEETING	5.47		ADMINISTRATION
8120 OFFICE SUPPLIES	STAPLES - OFFICE SUPPLIES	77.88		ADMINISTRATION
8100 MEETING EXPENSE	BUOY BEER - FOOD FOR JEFF AND COMMISSIONER GAEBEL	32.00		ADMINISTRATION
8120 OFFICE SUPPLIES	STAPLES - OFFICE SUPPLIES	9.96		ADMINISTRATION
8120 OFFICE SUPPLIES	0261 JONES STAPLES - OFFICE SUPPLIES	24.27	RIDECARE ADMIN	ADMINISTRATION
8020 BLDING & GROUNDS MAINT	HOME DEPOT - RIDECARE BUILDING REPAIR	2.42	RIDECARE ADMIN	ADMINISTRATION
8100 MEETING EXPENSE	FRED MEYER - FOOD FOR RIDECARE ADVISORY MEETING	20.91	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	STAPLES - OFFICE SUPPLIES	39.99	RIDECARE ADMIN	ADMINISTRATION
8020 BLDING & GROUNDS MAINT	HOME DEPOT - REPLACEMENT LIGHTS FOR RIDECARE	25.94	RIDECARE ADMIN	ADMINISTRATION
8030 COMP-INFO-TECH SERVICES	LENOVO - SOFTWARE	179.99	RIDECARE ADMIN	ADMINISTRATION
8120 OFFICE SUPPLIES	0334 LAYTON HOME DEPOT - MOUNTING TAPE FOR KIOSK	7.98		OPER 5311
8036 CONFERENCE/TRAINING FEES	CALACT - CONFERENCE FEE FOR INTERNATIONAL CONFERENCE ON DEMAND RESPONSIVE TRANSPORTATION	465.00		MOBILITY MANAGEMENT

# Bill

Sunset Empire Transportation District  
 ASTORIA, OR. 97103  
 900 Marine Drive

Date	Ref. No.
09/01/2016	0342 7/9 - 8/8

Vendor
CARD SERVICE CENTER PO BOX 569100 DALLAS TX 75356-9100

**PAID**

Bill Due	10/01/2016
Terms	
Memo	

## Expenses

Account	Memo	Amount	Customer:Job	Class
8038 TRAVEL	TRANSPORTATION RES - CONFERENCE FEE FOR RIBTC CONFERENCE	450.00		MOBILITY MANAGEMENT
8031 WEBSITE/ON-LINE SW SUB	ADOBE - SOFTWARE SUBSCRIPTION	34.98		ADMINISTRATION
8031 WEBSITE/ON-LINE SW SUB	MICROSOFT - EMAIL SUBSCRIPTION	452.45		ADMINISTRATION
8020 BLDING & GROUNDS MAINT	COASTAL LOCK AND KEY - BACKUP SET OF IT KEYS	6.00		ADMINISTRATION
8121 POSTAGE-SHIPING	USPS - POSTAGE	8.30		ADMINISTRATION
8070 EMPLOYEE RECOGNITION	FRED MEYER - GIFT CARD FOR EMPLOYEE OF QUARTER	30.00		ADMINISTRATION
8120 OFFICE SUPPLIES	STAPLES - INK CARTRIDGE FOR HR	26.99		ADMINISTRATION
8038 TRAVEL	0204 PARKER UNITED AIRLINES - AIRFARE FOR NATIONAL RUAL PUBLIC AND INTERCITY BUS CONFERENCE	401.70		MOBILITY MANAGEMENT
8038 TRAVEL	RENTAL INSURANCE - CAR RENTAL	44.00		MOBILITY MANAGEMENT
8038 TRAVEL	ALASKA AIRLINES - Denver Conference	238.20		MOBILITY MANAGEMENT
8070 EMPLOYEE RECOGNITION	FRED MEYER - Snacks for S&D meeting	23.40		ADMINISTRATION
8100 MEETING EXPENSE	SAFEWAY - Shelter cleaning suppleis	24.45		ADMINISTRATION
8100 MEETING EXPENSE	WET DOG -Mary Chamber Meeting Outreach	10.50		ADMINISTRATION
8036 CONFERENCE/TRAINING FEES	SDAO - P Lewicki fee	50.00		ADMINISTRATION

# Bill

Sunset Empire Transportation District  
ASTORIA, OR. 97103  
900 Marine Drive

Date	Ref. No.
09/01/2016	0342 7/9 - 8/8

Vendor
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**PAID**

Bill Due	10/01/2016
Terms	
Memo	

## Expenses

Account	Memo	Amount	Customer:Job	Class
8100 MEETING EXPENSE	HOME BAKING CO - Board Meeting snacks	20.00		ADMINISTRATION
8100 MEETING EXPENSE	SAFEWAY - Cards	11.67		ADMINISTRATION

Expense Total : 3,225.32

**Bill Total : \$3,225.32**

Date: October 20, 2016

To: Board of Commissioners

From: Jeff Hazen

Re: Agenda item 8.a Board Goal Setting Session Update

To prepare for next year's budget cycle, we need to schedule a date for the Board to have a goal setting/strategic planning retreat. A Doodle Poll has been sent out and as of the time of writing this, three commissioners have completed the poll, however the requested deadline isn't until tomorrow (Friday, October 21, 2016). I have contacted SDAO and they have assigned a consultant team to facilitate the session with the Board. We need to confirm a date so I can let the facilitator know and they can get us on their calendar. The dates that are on the poll are: Jan 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 14. We anticipate it will be a full day session so we have given the time frames of 8-5 or 9-6. We haven't determined where it will be held yet because we need to pin down a date.

Staff is recommending that the Board come to agreement on a date and time frame for the session.

Date: October 20, 2016

To: Board of Commissioners

From: Jeff Hazen

Re: Agenda item 9.a ODOT Agreement 31459

ODOT Agreement 31459 is for the purchase of two new buses. This 5339 Capital Grant was part of the recent competitive 5339 grant program. We will be purchasing two vehicles to replace two of the GM buses that are no longer in service due to excessive maintenance issues. The match on the award is \$58,500 and we have budgeted for this purchase.

Because this is a standard ODOT Agreement that cannot be changed, we have not had it reviewed by legal counsel. This will save the District money in the Legal Fees line of the budget.

Staff is recommending that the Board approve the Executive Director to sign ODOT Agreement 31459 for the purchase of 2 buses under the 5339 Capital Program to help fulfill its mission to provide safe, reliable, relevant and sustainable transportation services to Clatsop County with professionalism, integrity and courtesy.



## RAIL AND PUBLIC TRANSIT DIVISION OREGON DEPARTMENT OF TRANSPORTATION

This Agreement is made and entered into by and between the **State of Oregon**, acting by and through its Department of Transportation, Rail and Public Transit Division, hereinafter referred to as "State," and **Sunset Empire Transportation District**, hereinafter referred to as "Recipient," and collectively referred to as the "Parties."

### AGREEMENT

1. **Effective Date.** This Agreement shall become effective on the later of **September 1, 2016** or the date when this Agreement is fully executed and approved as required by applicable law. Unless otherwise terminated or extended, Grant Funds under this Agreement shall be available for Project Costs incurred on or before **June 30, 2018** (Expiration Date). No Grant Funds are available for any expenditures after the Expiration Date. State's obligation to disburse Grant Funds under this Agreement shall end as provided in Section 6.b.iv of this Agreement.
2. **Agreement Documents.** This Agreement consists of this document and the following documents, all of which are attached hereto and incorporated herein by reference:

**Exhibit A: Project Description and Budget**

**Exhibit B: Financial Information**

**Exhibit C: Subcontractor Insurance**

**Exhibit D: Summary of Federal Requirements, incorporating by reference Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement**

**Exhibit E: Information required by 2 CFR 200.331(a), may be accessed at <http://www.oregon.gov/odot/pt/>, Oregon Public Transit Information System (OPTIS), as the information becomes available**

In the event of a conflict between two or more of the documents comprising this Agreement, the language in the document with the highest precedence shall control. The precedence of each of the documents comprising this Agreement is as follows, listed from highest precedence to lowest precedence: Exhibit D; this Agreement without Exhibits; Exhibit A; Exhibit B; Exhibit C; Exhibit E.

3. **Project Cost; Grant Funds; Match.** The total project cost is estimated at **\$390,000.00**. In accordance with the terms and conditions of this Agreement, State shall provide Recipient an amount not to exceed **\$331,500.00** in Grant Funds for eligible costs described in Section 6 hereof. Recipient shall provide matching funds for all Project Costs as described in Exhibit A.
4. **Project.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by State by amendment pursuant to Section 11.d hereof.
5. **Progress Reports.** Recipient shall submit quarterly progress reports to State no later than 45 days after the close of each quarterly reporting period. Reporting periods are July through September, October through December, January through March, and April through June. Reports must be in a format acceptable to State and must be entered into the Oregon Public Transit Information System (OPTIS), which may be accessed at <http://www.oregon.gov/odot/pt/>. If Recipient is unable to access OPTIS, reports must be delivered to [ODOTPTDReporting@odot.state.or.us](mailto:ODOTPTDReporting@odot.state.or.us). Reports shall include a statement of revenues and expenditures for each quarter, including documentation of local match contributions and expenditures. State reserves the right to request such additional information as may be

necessary to comply with federal or state reporting requirements.

**6. Disbursement and Recovery of Grant Funds.**

- a. **Disbursement Generally.** State shall reimburse eligible costs incurred in carrying out the Project, up to the Grant Fund amount provided in Section 3. Reimbursements shall be made by State within 30 days of State's approval of a request for reimbursement from Recipient using a format that is acceptable to State. Requests for reimbursement must be entered into OPTIS or sent to ODOTPTDReporting@odot.state.or.us. Eligible costs are the reasonable and necessary costs incurred by Recipient, or under a subagreement described in Section 9 of this Agreement, in performance of the Project and that are not excluded from reimbursement by State, either by this Agreement or by exclusion as a result of financial review or audit.
- b. **Conditions Precedent to Disbursement.** State's obligation to disburse Grant Funds to Recipient is subject to satisfaction, with respect to each disbursement, of each of the following conditions precedent:
  - i. State has received funding, appropriations, limitations, allotments or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to make the disbursement.
  - ii. Recipient is in compliance with the terms of this Agreement including, without limitation, Exhibit D and the requirements incorporated by reference in Exhibit D.
  - iii. Recipient's representations and warranties set forth in Section 7 hereof are true and correct on the date of disbursement with the same effect as though made on the date of disbursement.
  - iv. Recipient has provided to State a request for reimbursement using a format that is acceptable to and approved by State. Recipient must submit its final request for reimbursement following completion of the Project and no later than 60 days after the Expiration Date. Failure to submit the final request for reimbursement within 60 days after the Expiration Date could result in non-payment.
- c. **Recovery of Grant Funds.** Any funds disbursed to Recipient under this Agreement that are expended in violation or contravention of one or more of the provisions of this Agreement ("Misexpended Funds") or that remain unexpended on the earlier of termination or expiration of this Agreement must be returned to State. Recipient shall return all Misexpended Funds to State promptly after State's written demand and no later than 15 days after State's written demand. Recipient shall return all Unexpended Funds to State within 14 days after the earlier of expiration or termination of this Agreement.

**7. Representations and Warranties of Recipient.** Recipient represents and warrants to State as follows:

- a. **Organization and Authority.** Recipient is duly organized and validly existing under the laws of the State of Oregon and is eligible to receive the Grant Funds. Recipient has full power, authority, and legal right to make this Agreement and to incur and perform its obligations hereunder, and the making and performance by Recipient of this Agreement (1) have been duly authorized by all necessary action of Recipient and (2) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's Articles of Incorporation or Bylaws, if applicable, (3) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is a party or by which Recipient or any of its properties may be bound or affected. No authorization, consent, license, approval of, filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement.
- b. **Binding Obligation.** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient, enforceable in accordance with its terms subject to the laws of bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally.
- c. **No Solicitation.** Recipient's officers, employees, and agents shall neither solicit nor

accept gratuities, favors, or any item of monetary value from contractors, potential contractors, or parties to subagreements, except as permitted by applicable law. No member or delegate to the Congress of the United States or State of Oregon employee shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

- d. **No Debarment.** Neither Recipient nor its principals is presently debarred, suspended, or voluntarily excluded from this federally-assisted transaction, or proposed for debarment, declared ineligible or voluntarily excluded from participating in this Agreement by any state or federal agency. Recipient agrees to notify State immediately if it is debarred, suspended or otherwise excluded from this federally-assisted transaction for any reason or if circumstances change that may affect this status, including without limitation upon any relevant indictments or convictions of crimes.

The warranties set in this section are in addition to, and not in lieu of, any other warranties set forth in this Agreement or implied by law.

**8. Records Maintenance and Access; Audit.**

- a. **Records, Access to Records and Facilities.** Recipient shall make and retain proper and complete books of record and account and maintain all fiscal records related to this Agreement and the Project in accordance with all applicable generally accepted accounting principles, generally accepted governmental auditing standards and state minimum standards for audits of municipal corporations. Recipient shall require that each of its subrecipients and subcontractors complies with these requirements. State, the Secretary of State of the State of Oregon (Secretary), the United States Department of Transportation (USDOT), the Federal Transit Administration (FTA) and their duly authorized representatives shall have access to the books, documents, papers and records of Recipient that are directly related to this Agreement, the funds provided hereunder, or the Project for the purpose of making audits and examinations. In addition, State, the Secretary, USDOT, FTA and their duly authorized representatives may make and retain excerpts, copies, and transcriptions of the foregoing books, documents, papers, and records. Recipient shall permit authorized representatives of State, the Secretary, USDOT and FTA to perform site reviews of the Project, and to inspect all vehicles, real property, facilities and equipment purchased by Recipient as part of the Project, and any transportation services rendered by Recipient.
- b. **Retention of Records.** Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Agreement, the Grant Funds or the Project for a minimum of six (6) years, or such longer period as may be required by other provisions of this Agreement or applicable law, following the Expiration Date. If there are unresolved audit questions at the end of the six-year period, Recipient shall retain the records until the questions are resolved.
- c. **Expenditure Records.** Recipient shall document the expenditure of all Grant Funds disbursed by State under this Agreement. Recipient shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit State to verify how the Grant Funds were expended.
- d. **Audit Requirements.**
  - i. Recipients receiving federal funds in excess of \$750,000 are subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at Recipient's own expense submit to State, Rail and Public Transit Division, 555 13th Street NE, Suite 3, Salem, Oregon, 97301-4179 or to [ODOTPTDReporting@odot.state.or.us](mailto:ODOTPTDReporting@odot.state.or.us), a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Agreement and shall submit or cause to be submitted, the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Agreement.
  - ii. Recipient shall save, protect and hold harmless State from the cost of any audits or special investigations performed by the Secretary with respect to the funds expended under this Agreement. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and State.

## 9. Recipient Subagreements and Procurements

- a. **Subagreements.** Recipient may enter into agreements with sub-recipients, contractors or subcontractors (collectively, "subagreements") for performance of the Project.
  - i. All subagreements must be in writing executed by Recipient and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the subagreement(s). Use of a subagreement does not relieve Recipient of its responsibilities under this Agreement.
  - ii. Recipient agrees to provide State with a copy of any signed subagreement upon request by State. Any substantial breach of a term or condition of a subagreement relating to funds covered by this Agreement must be reported by Recipient to State within ten (10) days of its being discovered.
- b. Recipient shall review the *Best Practices Procurement Manual*, a technical assistance manual prepared by the FTA, available on the FTA website: [www.fta.dot.gov/grants/13054\\_6037.html](http://www.fta.dot.gov/grants/13054_6037.html)
- c. **Subagreement indemnity; insurance**

***Recipient's subagreement(s) shall require the other party to such subagreements(s) that is not a unit of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless State and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorneys' fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of the other party to Recipient's subagreement or any of such party's officers, agents, employees or subcontractors ("Claims"). It is the specific intention of the Parties that the State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the State, be indemnified by the other party to Recipient's subagreement(s) from and against any and all Claims.***

Any such indemnification shall also provide that neither Recipient's subrecipient(s), contractor(s) nor subcontractor(s) (collectively "Subrecipients"), nor any attorney engaged by Recipient's Subrecipient(s), shall defend any claim in the name of the State or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State may, at any time at its election, assume its own defense and settlement in the event that it determines that Recipient's Subrecipient is prohibited from defending State or that Recipient's Subrecipient is not adequately defending State's interests, or that an important governmental principle is at issue or that it is in the best interests of State to do so. State reserves all rights to pursue claims it may have against Recipient's Subrecipient if State elects to assume its own defense.

Recipient may require the other party, or parties, to each of its subagreements that are not units of local government as defined in ORS 190.003 to obtain and maintain insurance of the types and in the amounts provided in Exhibit C to this Agreement. Any insurance obtained by the other party to Recipient's subagreements, if any, shall not relieve Recipient of the requirements of Section 11.j of this Agreement. The other party to any subagreement with Recipient, if the other party employs subject workers as defined in ORS 657.027, must obtain Workers Compensation Coverage as described in Exhibit C.

- d. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, as applicable, including all applicable provisions of the Oregon Public Contracting Code and rules, and in conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:
  - i. all applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
  - ii. all procurement transactions are conducted in a manner providing full and open

- competition;
- iii. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);
- iv. construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.
- e. **Procurements.** Recipient shall make purchases of any equipment, materials, or services for the Project under procedures that comply with Oregon law, as applicable, including all applicable provisions of the Oregon Public Contracting Code and rules, and in conformance to FTA Circular 4220.1F, Third Party Contracting Requirements including:
  - i. all applicable clauses required by federal statute, executive orders and their implementing regulations are included in each competitive procurement;
  - ii. all procurement transactions are conducted in a manner providing full and open competition;
  - iii. procurements exclude the use of statutorily or administratively imposed in-state or geographic preference in the evaluation of bids or proposals (with exception of locally controlled licensing requirements);
  - iv. construction, architectural and engineering procurements are based on Brooks Act procedures unless the procurement is subject to ORS 279C.100 to 279C.125.
- f. **Additional requirements**
  - i. Recipient shall comply with 49 CFR sections 37.77(c) and 37.105 regarding "Certification of Equivalent Service" when purchasing vehicles under this Agreement. If non-accessible vehicles, as defined by the Americans with Disabilities Act, are being purchased for use by a public entity in demand responsive service for the general public, Recipient will certify to State at the time of applying for a project that, when viewed in its entirety, the demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service.
  - ii. Recipient shall comply with 49 CFR 663 regarding pre-award and post-delivery reviews. Every Recipient purchasing rolling stock or facilities under this Agreement must certify to State that a pre-award and post-delivery review has been conducted in accordance with ODOT requirements. This review ensures compliance to bid specifications including, but not limited to, FTA requirements, State requirements, and Federal Motor Carrier Safety Standards, as applicable to the type of project. Each Recipient's certification must include assurance that required documents have been received from manufacturers or vendors of products, or from both, and that Recipient possesses such documents. Acceptable certification forms are available from State. Recipient must provide certification forms to State when reimbursement is requested for vehicles. For facilities projects, Recipient must provide pre-award certifications to State at time of first payment, and post-delivery certifications upon completion of the post-delivery review, and in no event later than with Recipient's request for final payment.
  - iii. Recipient shall comply with 49 CFR 604 in the provision of any charter service provided with vehicles, facilities, or equipment acquired with FTA assistance under this Agreement.
  - iv. Recipient shall submit an annual vehicle inspection report to State for any vehicle purchased under this Agreement. Vehicle inspections shall be conducted by a vehicle maintenance technician certified by a nationally recognized organization in the field of vehicle service and maintenance. Reports covering required areas of inspection shall be submitted on forms provided by State.
  - v. All drivers of vehicles purchased with FTA funds under this Agreement must complete a standard defensive driving course before operating an FTA-funded

vehicle, and are advised to complete a standard defensive driving course before operating a State-funded vehicle.

- vi. Recipient shall maintain all vehicles, equipment, and facilities purchased under this Agreement in good condition per manufacturer's recommendations. Recipients are required to develop preventive maintenance plans for all rolling stock and facilities and to provide the plans to State upon request.
- vii. Recipient shall be the owner of the property for facility construction projects and of vehicles purchased under this Agreement. Such ownership shall be recorded on real property deeds for facility construction projects and on vehicle titles. If Recipient contracts the operation of vehicles to a third party, then the third party may be shown as the owner or lessee with Recipient listed as the second security interest holder or lessor. In all cases, Oregon Department of Transportation, Rail and Public Transit Division shall be shown as the first security interest holder on vehicle titles. If Recipient fails to show Oregon Department of Transportation, Rail and Public Transit Division as the first security interest holder, Recipient shall pay any expenses to re-submit the necessary documents to Oregon Department of Transportation, Driver and Motor Vehicle Services (DMV). If a vehicle is damaged or destroyed at any time when Recipient fails to show Oregon Department of Transportation, Rail and Public Transit Division, as the first security interest holder, Recipient shall be liable to State for any damage in an amount in the same manner as if Oregon Department of Transportation, Rail and Public Transit Division, were shown as the first security interest holder.
- viii. Recipient shall bear the cost of insuring assets purchased under this Agreement based on risk assessment. Recipient shall maintain, in amounts and form satisfactory to State, such insurance or self-insurance as will be adequate to protect Recipient, vehicle drivers and assistants, vehicle occupants, and property throughout the period of use. The minimum that will be approved by State is comprehensive and collision insurance adequate to repair or replace property and equipment if damaged or destroyed; liability insurance of \$50,000 for property damage, \$200,000 for bodily injury per person, \$500,000 for bodily injury per occasion for maintenance and shop vehicles, and \$1,000,000 for bodily injury per occasion for vehicles providing passenger transportation; uninsured motorist protection; and personal injury protection as required by ORS Chapter 806. Recipient shall be responsible for all deductibles or self-insured retention. Recipient's insurance policy covering assets purchased under this Agreement shall include the Oregon Department of Transportation, Rail and Public Transit Division as an "Additional Insured".
- ix. Recipient shall file a restrictive covenant with the property deed for all construction projects and purchases of real estate, with the exception of passenger shelters, amenities, and right-of-way infrastructure improvements. The restrictive covenant will limit the use of the building and property to the stated purpose specified in the statement of work associated with this Agreement.
- x. Recipient shall complete all purchases, including installation, and all construction of capital assets funded under this Agreement prior to the Expiration Date of this Agreement. If local circumstances prevent purchase, installation, or construction by the specified date, Recipient will notify State in writing of the circumstances regarding the delay. Such notification must be received at least forty-five (45) days prior to the expiration of the Agreement. Agreement amendment for time will be considered in extenuating circumstances.

## 10. Termination

- a. **Termination by State.** State may terminate this Agreement effective upon delivery of written notice of termination to Recipient, or at such later date as may be established by State in such written notice, if:
  - i. Recipient fails to perform the Project within the time specified herein or any extension thereof or commencement, continuation or timely completion of the Project by Recipient is, for any reason, rendered improbable, impossible, or illegal; or

- ii. State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement; or
  - iii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement; or
  - iv. The Project would not produce results commensurate with the further expenditure of funds; or
  - v. Recipient takes any action pertaining to this Agreement without the approval of State and which under the provisions of this Agreement would have required the approval of State.
- b. **Termination by Recipient.** Recipient may terminate this Agreement effective upon delivery of written notice of termination to State, or at such later date as may be established by Recipient in such written notice, if:
- i. The requisite local funding to continue the Project becomes unavailable to Recipient; or
  - ii. Federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project is no longer allowable or no longer eligible for funding under this Agreement.
- c. **Termination by Either Party.** Either Party may terminate this Agreement upon at least ten days notice to the other Party and failure of the other Party to cure within the period provided in the notice, if the other Party fails to comply with any of the terms of this Agreement.

#### 11. General Provisions

- a. **Contribution.** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or Recipient with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

With respect to a Third Party Claim for which State is jointly liable with Recipient (or would be if joined in the Third Party Claim ), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of the State on the one hand and of the Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.

With respect to a Third Party Claim for which Recipient is jointly liable with State (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments,

finer or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

- b. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- c. **Responsibility for Grant Funds.** Any recipient of Grant Funds, pursuant to this Agreement with State, shall assume sole liability for that recipient's breach of the conditions of this Agreement, and shall, upon recipient's breach of conditions that requires State to return funds to the FTA, hold harmless and indemnify State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of the recipient of Grant Funds, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.
- d. **Amendments.** This Agreement may be amended or extended only by a written instrument signed by both Parties and approved as required by applicable law.
- e. **Duplicate Payment.** Recipient is not entitled to compensation or any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon or the United States of America or any other party, organization or individual.
- f. **No Third Party Beneficiaries.** State and Recipient are the only Parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly, to a third person unless such a third person is individually identified by name herein and expressly described as an intended beneficiary of the terms of this Agreement.

Recipient acknowledges and agrees that the Federal Government, absent express written consent by the Federal Government, is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Recipient, contractor or any other party (whether or not a party to the Agreement) pertaining to any matter resulting from the this Agreement.

- g. **Notices.** Except as otherwise expressly provided in this Agreement, any communications between the Parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, email, or mailing the same, postage prepaid, to Recipient Contact or State Contact at the address or number set forth on the signature page of this Agreement, or to such other addresses or numbers as either Party may hereafter indicate pursuant to this Section 11.g. Any communication or notice personally delivered shall be deemed to be given when actually delivered. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine, and to be effective against State, such facsimile transmission must be confirmed by telephone notice to State Contact. Any communication by email shall be deemed to be given when the recipient of the email acknowledges receipt of the email. Any communication or notice mailed shall be deemed to be given when received.
- h. **Governing Law, Consent to Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between State (or any other agency or department of the State of Oregon) and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County in the State of Oregon. In no event



shall this section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. EACH PARTY HEREBY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURT, WAIVES ANY OBJECTION TO VENUE, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM.

- i. **Compliance with Law.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to the Agreement or to the implementation of the Project, as applicable to Recipient, including without limitation as described in Exhibit D. Without limiting the generality of the foregoing, Recipient expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.
- j. **Insurance; Workers' Compensation.** All employers, including Recipient, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Employer's liability insurance with coverage limits of not less than \$500,000 must be included. Recipient shall ensure that each of its subrecipient(s), contractor(s), and subcontractor(s) complies with these requirements.
- k. **Independent Contractor.** Recipient shall perform the Project as an independent contractor and not as an agent or employee of State. Recipient has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Recipient performs the Project, except as specifically set forth in this Agreement. Recipient is responsible for determining the appropriate means and manner of performing the Project. Recipient acknowledges and agrees that Recipient is not an "officer", "employee", or "agent" of State, as those terms are used in ORS 30.265, and shall not make representations to third parties to the contrary.
- l. **Severability.** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.
- m. **Counterparts.** This Agreement may be executed in two or more counterparts (by facsimile or otherwise), each of which is an original and all of which together are deemed one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart.
- n. **Integration and Waiver.** This Agreement, including all Exhibits, constitutes the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. The delay or failure of either Party to enforce any provision of this Agreement shall not constitute a waiver by that Party of that or any other provision. Recipient, by the signature below of its authorized representative, hereby acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

**The Parties**, by execution of this Agreement, hereby acknowledge that each Party has read this Agreement, understands it, and agrees to be bound by its terms and conditions.

The Oregon Transportation Commission on October 20, 2010, approved Delegation Order Number OTC-01, which authorizes the Director of the Oregon Department of Transportation to administer programs related to public transit.

On March 1, 2012, the Director approved Delegation Order Number DIR-04, which delegates the authority to approve this Agreement to the Rail and Public Transit Division Administrator.

**SIGNATURE PAGE TO FOLLOW**

**Sunset Empire Transportation District**, by  
and through its

\_\_\_\_\_  
By \_\_\_\_\_  
(Legally designated representative)

Name \_\_\_\_\_  
(printed)

Date \_\_\_\_\_

By \_\_\_\_\_

Name \_\_\_\_\_  
(printed)

Date \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**

(If required in local process)

By \_\_\_\_\_  
Recipient's Legal Counsel

Date \_\_\_\_\_

**Recipient Contact:**

Jeff Hazen  
900 Marine Drive  
Astoria, OR 97103  
1 (503) 861-5370  
jeff@ridethebus.org

**State Contact:**

Jamey Dempster  
555 13th Street NE  
Salem, OR 97301  
1 (503) 731-8563  
James.DEMPSTER@odot.state.or.us

**State of Oregon**, by and through its  
Department of Transportation

By \_\_\_\_\_  
H. A. (Hal) Gard  
Rail and Public Transit Division Administrator

Date \_\_\_\_\_

**APPROVAL RECOMMENDED**

By \_\_\_\_\_ Arla Miller

Date \_\_\_\_\_ 08/31/2016

**APPROVED AS TO LEGAL SUFFICIENCY**

(For funding over \$150,000)

By \_\_\_\_\_  
Assistant Attorney General

Name \_\_\_\_\_ Dee K Carlson by email  
(printed)

Date \_\_\_\_\_ 09/28/2016

**EXHIBIT A**

**Project Description and Budget**

**Project Description/Statement of Work**

<b>Project Title: 5339 Sunset Empire TD 31459 Discretionary Vehicle Purchase-Repl</b>				
<i>Vehicle Replacement Category B (2)</i>				
<b>Item #1: Bus STD 35ft</b>				
	Total	Grant Amount	Local Match	Match Type(s)
	\$390,000.00	\$331,500.00	\$58,500.00	Local
<b>Sub Total</b>	\$390,000.00	\$331,500.00	\$58,500.00	
<b>Grand Total</b>	<b>\$390,000.00</b>	<b>\$331,500.00</b>	<b>\$58,500.00</b>	

• **1. PROJECT DESCRIPTION**

*This Agreement provides funding to purchase passenger transportation vehicle(s) to be used to provide public transportation service. Public transportation service is defined as service to the general public or special populations such as seniors and individuals with disabilities. Recipient may use the vehicle(s) to coordinate public and human service transportation services with other agencies.*

**2. PROJECT DELIVERABLES, SCHEDULE AND USE**

*Recipient shall Purchase 2 transit vehicle as follows: useful life: 10 years and/or 350,000 miles; approximate length: 30-35 feet; estimated number of seats: 25-35; estimated number of ADA securement stations 2; fuel type: Diesel.*

*Purchase includes all equipment and supplies necessary to put the vehicle(s) into service.*

*The following vehicle(s) have been approved for replacement in this Agreement (VIN, Description, OPTIS number):*

*1GBG5U1968F417172 -- 2010 Chevrolet 5500 -- V000873  
 1GBG5U1938F417114 -- 2010 Chevrolet 5501 -- V000874*

*All purchases and installations must be completed prior to the expiration date of this Agreement.*

*Expected order date: 9/1/2016; expected delivery date: 9/30/2017.*

*If Recipient does not purchase from the State Price Agreement contracts managed by the Oregon Department of Administrative Services, Requests for Proposals to procure the vehicle must be reviewed by State prior to solicitation for bids. All vehicle orders will be reviewed by State prior to submission to selected vendor.*

*State will retain title to all vehicles as primary security interest holder as long as the vehicles remain in active public transportation service. Recipient shall not lease the vehicle(s) to another agency without the permission of State. Recipient shall request permission from State to release title for disposal when planning to sell or transfer a vehicle which has exceeded the minimum useful standard for age or mileage, and must notify State when actual disposal has been completed. Recipient must request permission from State in advance to transfer or otherwise dispose of a vehicle prior to its meeting federal useful life standards. Recipient must request permission from State to release title for changes.*

*Agreement asset insurance provision 9. f. Additional requirements, section viii. shall control over insurance requirements listed in Exhibit C Insurance Requirements ii. Commercial General Liability and iii. AUTOMOBILE LIABILITY INSURANCE in the event of any ambiguity or conflict.*

### 3. PROJECT ACCOUNTING AND MATCH

*Eligible expenses that may be charged to this Agreement include grant administration, cost of procurement process, delivery charges, and post-delivery inspections. Aftermarket equipment, graphics and other items directly associated with this vehicle and required to put the vehicle into service are eligible. Extended warranty is an eligible expense; however, the eligible warranty shall not exceed the defined useful life of the vehicle. Licensing and other post-delivery expenses are not eligible for reimbursement.*

*Recipient's current indirect cost rate as it pertains to this Agreement is 0.0 percent. Changes to Recipient's indirect cost rate must be approved by State.*

*Recipients will provide match from eligible sources. Recipient may not count the same costs twice if they have multiple agreements for which these costs may be eligible.*

### 4. REPORTING AND INVOICING REQUIREMENTS

*Recipient will provide reporting information as prescribed by State on vehicle(s) purchased under this agreement as long as the vehicle(s) remain in public transportation service.*

*Recipient will submit a request for reimbursement in a format provided by State. Requests must include the following: a cover letter and copies of all invoices associated with expenses identified for reimbursement, pre-award and post-delivery certification forms which document compliance to Altoona bus testing, Federal Motor Vehicle Safety Standards, Buy America, and Disadvantaged Business Enterprise requirements.*

**EXHIBIT B**  
**FINANCIAL INFORMATION**

The information below will assist auditors to prepare a report in compliance with the requirements of 2 CFR part 200, subpart F.

This Agreement is financed by the funding source indicated below:

<b>Federal Program</b> 9300.1A	<b>Federal Funding Agency</b> U.S. Department of Transportation Federal Transit Administration 915 Second Avenue, Suite 3142 Seattle, WA 98174	<b>CFDA Number</b> <b>20.526 (5339)</b>	<b>Total Federal Funding</b> <b>\$331,500.00</b>
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<b>Administered By</b> Rail and Public Transit Division 555 13th Street NE Salem, OR 97301
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## EXHIBIT C

### Insurance Requirements

#### GENERAL.

Recipient shall require in its first tier subagreements with entities that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance specified under TYPES AND AMOUNTS and meeting the requirements under ADDITIONAL INSURED, "TAIL" COVERAGE, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before performance under the subagreement commences, and ii) maintain the insurance in full force throughout the duration of the subagreement. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to State. Recipient shall not authorize work to begin under subagreements until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the subagreement permitting it to enforce compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. In no event shall Recipient permit work under a subagreement when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, "first tier" means a subagreement in which the Recipient is a Party.

#### TYPES AND AMOUNTS.

i. **WORKERS COMPENSATION.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Employers liability insurance with coverage limits of not less than \$500,000 must be included.

ii. **COMMERCIAL GENERAL LIABILITY.** Commercial General Liability Insurance covering bodily injury, death, and property damage in a form and with coverages that are satisfactory to State. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence form basis, with not less than the following amounts as determined by State:

Bodily Injury, Death and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

iii. **AUTOMOBILE Liability Insurance: Automobile Liability.** Automobile Liability Insurance covering all owned, non-owned and hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for "Commercial General Liability" and "Automobile Liability"). Automobile Liability Insurance must be in not less than the following amounts as determined by State:

Bodily Injury, Death and Property Damage:

\$1,000,000 per occurrence (for all claimants for claims arising out of a single accident or occurrence).

**ADDITIONAL INSURED.** The Commercial General Liability Insurance and Automobile Liability insurance must include State, its officers, employees and agents as Additional Insureds but only with respect to the contractor's activities to be performed under the Subcontract. Coverage must be primary and non-contributory with any other insurance and self-insurance.

**"TAIL" COVERAGE.** If any of the required insurance policies is on a "claims made" basis, such as

professional liability insurance, the contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of the Subcontract, for a minimum of 24 months following the later of: (i) the contractor's completion and Recipient's acceptance of all Services required under the Subcontract or, (ii) the expiration of all warranty periods provided under the Subcontract. Notwithstanding the foregoing 24-month requirement, if the contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then the contractor may request and State may grant approval of the maximum "tail" coverage period reasonably available in the marketplace. If State approval is granted, the contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace.

**NOTICE OF CANCELLATION OR CHANGE.** The contractor or its insurer must provide 30 days' written notice to Recipient before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

**CERTIFICATE(S) OF INSURANCE.** Recipient shall obtain from the contractor a certificate(s) of insurance for all required insurance before the contractor performs under the Subcontract. The certificate(s) or an attached endorsement must specify: i) all entities and individuals who are endorsed on the policy as Additional Insured and ii) for insurance on a "claims made" basis, the extended reporting period applicable to "tail" or continuous "claims made" coverage.



## EXHIBIT D

### **Summary of Federal Requirements and Incorporating by Reference Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements ("Certifications and Assurances") and Federal Transit Administration Master Agreement ("Master Agreement")**

Recipient and Recipient's subrecipient(s), contractor(s), or subcontractor(s), at any tier, if any, must comply with all applicable federal requirements contained in the Certifications and Assurances available at [www.transit.dot.gov](http://www.transit.dot.gov). The Certifications and Assurances, including as they may be changed during the term of this Agreement, are by this reference incorporated herein.

Recipient further agrees to comply with all applicable requirements included in the Master Agreement that is signed and attested to by State. This Master Agreement is incorporated by reference and made part of this Agreement. Said Master Agreement is available upon request from State by calling (503) 986-3300, or at [www.transit.dot.gov](http://www.transit.dot.gov). Without limiting the foregoing, the following is a summary of some requirements applicable to transactions covered by this Agreement and the funds described in Exhibit A:

1. Recipient shall comply with Title VI of the Civil Rights Act of 1964 (78 State 252, 42 U.S.C. § 2000d) and the regulations of the United States Department of Transportation (49 CFR 21, Subtitle A). Recipient shall exclude no person on the grounds of race, religion, color, sex, age, national origin, or disability from the benefits of aid received under this Agreement. Recipient will report to State on at least an annual basis the following information: any active lawsuits or complaints, including dates, summary of allegation, status of lawsuit or complaint including whether the Parties entered into a consent decree.
2. Recipient shall comply with FTA regulations in Title 49 CFR 27 Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance which implements the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, 49 CFR 37, and 49 CFR 38.
3. Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. Recipient's DBE program, if applicable, as required by 49 CFR part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to State of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
4. Recipient must include the following language in each subagreement Recipient signs with a subcontractor or subrecipient:

*The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor, subrecipient, or subcontractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT-assisted contracts. Failure by the contractor, subrecipient, or subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Recipient deems appropriate.*

5. Recipient and contractors receiving in excess of \$100,000 in federal funds, other than Indian tribes, must certify to State that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or Agency, a member of Congress, or an employee of a member of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award. If non-federal

funds have been used to support lobbying activities in connection with the Project, Recipient shall complete Standard Form LLL, Disclosure Form to Report Lobbying and submit the form to State at the end of each calendar quarter in which there occurs an event that requires disclosure. Restrictions on lobbying do not apply to influencing policy decisions. Examples of prohibited activities include seeking support for a particular application or bid and seeking a congressional earmark.

Date: October 19, 2016

To: Board of Commissioners

From: Shana Verley

Re: Appointment of Pamela Alegria to the Senior and Disabled Advisory Committee

At this week's Senior & Disabled Transportation Advisory Committee, they voted unanimously to recommend that the Board of Commissioners appoint Pamela Alegria to the S & D Committee. You may recall that Pamela was a candidate to fill Rae Goforth's seat on the Commission. We are excited that she took us up on our suggestion that she apply for the last vacant seat on the committee.

Staff recommends that the Board appoint Pamela Alegria to the S & D committee.



SUNSET EMPIRE  
TRANSPORTATION  
DISTRICT

**Senior & Disabled Special Transportation Advisory Committee  
Member Application**

900 Marine Drive • Astoria, OR 97103 • 503-861-7433 • [www.ridethebus.org](http://www.ridethebus.org)

**Name:** Alegria, Pamela  
Last Name First Name

**Mailing Address:** 1264 Grand Ave. Astoria, Oregon 9710  
Street City State Zip

**Telephone Number:** (503) 325-8024

**Email Address:** [pamjim3750@msn.com](mailto:pamjim3750@msn.com)

**Please list any areas of interest or expertise relating to a position on the Senior and Disabled Advisory Committee.**

For my master's degree in urban and regional planning from Portland State University, I studied transportation and land uses issues, which affect the availability, design, and location of transit. I wrote my master's paper on the regulatory, social, and technical issues on the implementation of the pedestrian element of the Oregon Transportation Planning Rule. Pedestrian infrastructure affects the availability and ease of access to transit. For the Portland Bureau of Planning, I wrote a paper analyzing the effects of transportation modes, land uses, and planning policies for thirteen neighborhoods.

As a member of citizens' advisory groups in Portland metropolitan area, I worked with Tri-Met, Metro, Multnomah County, Washington County, and Clackamas County to develop policies on city, regional, and state plans which included issues of seniors and disabled people riding transit. Some of these plans were Multnomah and Clackamas Counties' Street Design Guidelines, Oregon Bicycle and Pedestrian Plan,

the North Macadam District Plan, and the Transportation Planning Rule for cities and counties.

As a planner for the City of Warrenton I wrote staff reports on land use applications which included compliance with the Americans with Disabilities Act.

As a pedestrian advocate I worked on plans that formulated designs for pedestrian infrastructure to facilitate safe walking for seniors and the disabled on sidewalks and at transit stops.

As a planner for the Oregon Department of Transportation I analyzed development proposals for access onto state roads for compliance with Oregon Department of Transportation plans, regional plans, and State statutes. The design and location of the access onto roads affects riders on transit when they board and disembark.

**Why are you interested in becoming a member of the Senior and Disabled Advisory Committee?**

I feel that it is important to provide mobility and access for everyone. I would like to serve on the committee to make travel for seniors and disabled people comfortable, accessible, and convenient.

**What is your experience with Seniors and persons with disabilities in the community?**

I am a senior and have used transit on the North Coast and Portland area as well as in other areas of the country whose passengers include seniors and persons with disabilities. I have been a member of Encore.

**Have you ever been a member of a group similar to our Senior and Disabled Advisory Committee?**

Yes     No

**If yes, please explain.**

I have served on at least a dozen committees representing the Willamette Pedestrian Coalition as a pedestrian advocate.

**Please list any additional volunteer experience:**

I have been president and board member of the Lower Columbia Preservation Society, president and board member of the Willamette Pedestrian Coalition, and a member of the Coalition for a Livable Future. Currently I am a board member of the Association of American University Women (AAUW) of Astoria.

Signature of Applicant Pamela Alegria

Date August 9, 2016

DATE: October 19, 2016

TO: Board of Commissioners

FROM: Mary Parker

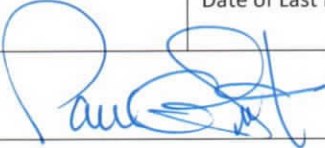
RE: Board Best Practices Cover Letter

Every year Special Districts Insurance Services (SDIS) sends out the requirements for their Best Practices Program. This program provides an opportunity for participating districts to earn up to a 10% discount on property and casualty contributions. This year there are 5 categories that each offer a 2% discount towards the districts total credit.

The following requirements have been met:

1. Online Government Ethics Training completed through Safe Personnel-Mary Parker and staff
2. SDIS/SDAO Training- Kevin Widener (SDAO Conference Bend)
3. Affiliate Membership- Oregon Transit Association
4. SETD Oregon Ethics Policy- Board Policy B-401 and Personnel Policy 7.3 Code of Ethics (attached)

We will be completing the 5<sup>th</sup> requirement during the October Board meeting. This is the Best Practices Survey which requires the Board as a group to answer questions about Oregon Ethics Law. The survey requires the distribution of the Oregon Government Ethics Law for Public Officials (OGEL) as well as the 2015 Supplement to the Guide for Public Officials which are both included in the Board Pack. Please review both of these documents.

<b>SUNSET EMPIRE TRANSPORTATION DISTRICT BOARD OF COMMISSIONERS</b>  <b>ETHICS POLICY</b>	Policy # <b>B-401</b>	Effective Date: <i>October 25, 2012</i>
	Signature 	Date of Last Review

**POLICY:**

The Board of Commissioners of the Sunset Empire Transportation District (SETD) and the N.W. Ride Center (NWRC) expect all elected officials, employees, and volunteers of the District to familiarize themselves and comply with the provisions of the Oregon Government Ethics Law.

The provisions in the Oregon Government Ethics law restrict some choices, decision or actions of a public official. Each individual public official is held personally responsible for complying with the provisions of the Oregon Government Ethics law as set forth in ORS Chapter 244 and OAR Chapter 199.

See Appendix A- "A GUIDE FOR PUBLIC OFFICIALS" explaining provisions of the law from the Oregon Government Ethics Commission [www.oregon.gov/ogec](http://www.oregon.gov/ogec)



This section has been arranged to present a general overview of some of the District's expectations of its employees. Every employee should keep in mind that each is a part of a team of public employees, and public satisfaction with the District depends upon good service.

## 7.2 PERSONAL CONDUCT

Positive attitude, proper courtesy, and conduct on and off the job are important to the individual as well as to the District. Neatness of work performed is also important. All employees are engaged in public relations. Some deal directly with the public; others, while not in direct personal contact, do perform work under the public eye. Employees of the District, regardless of whether contacts are direct or indirect, are expected to be courteous, efficient, and helpful in all their work assignments. Favorable impressions created by employees' public behavior help develop good will and support for District services.

## 7.3 CODE OF ETHICS FOR DISTRICT EMPLOYEES

1. **Personal Interests Avoided.** District employees may not use District time, equipment or services for personal interest or gain. When giving testimony unrelated to their assigned District responsibilities, District employees shall not use information or facts that have come to them by virtue of their employment for personal gain or benefit. In matters of personal interest, employees should conduct themselves so as not to impair their working relationship with other employees, officials, or the public.

2. **Gifts and Gratuities.** Employees shall not accept any special favors, gifts, or gratuities resulting from or related to employment with the District. In this regard, the appearance of impropriety can be as damaging as actual impropriety and shall be avoided.

3. **Special Gifts.** Managers may allow acceptance of non-monetary gifts of nominal value at holidays or special occasions, which are available to be shared by all employees.

## 7.4 POLITICAL ACTIVITIES OF DISTRICT EMPLOYEES

1. **Official Position - Campaigning.** Employees may not use their official authority or position with the District to further the cause of any political party or candidate for nomination or election to any political office.

2. **On-Duty Activity.** Oregon law forbids any District employee, while on the

# OREGON GOVERNMENT ETHICS LAW

## A GUIDE FOR PUBLIC OFFICIALS



Oregon Government Ethics Commission  
3218 Pringle Rd. SE, Suite 220  
Salem, OR 97302-1544  
Telephone: 503-378-5105  
Fax: 503-373-1456  
Web address: [www.oregon.gov/ogec](http://www.oregon.gov/ogec)

Adopted October 2010

## **DISCLAIMER**

This guide has been approved by the Oregon Government Ethics Commission pursuant to ORS 244.320. ORS 244.320 requires this publication to explain in understandable terms the requirements of Oregon Government Ethics law and the Oregon Government Ethics Commission's interpretation of those requirements. Toward that end, statutes and rules have been summarized and paraphrased in this guide. Therefore, the discussion in this guide should not be used as a substitute for a review of the specific statutes and rules.

Any public official, business or any person shall not be liable under ORS Chapter 244 for any action or transaction carried out in accordance with Commission opinions set forth in this guide. "In accordance with" the opinions means that the fact circumstances of any action or transaction for which any public official, business or person shall not be liable must be the same fact circumstances for an action or transaction described in this guide as the basis for an opinion in this guide.

There may be other laws or regulations not within the jurisdiction of the Commission that apply to actions or transactions described in this guide.

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## INTRODUCTION

In 1974, voters approved a statewide ballot measure to create the Oregon Government Ethics Commission (Commission). The measure established laws that are contained in Chapter 244 of the Oregon Revised Statutes (ORS).

When the Commission was established, it was given jurisdiction to implement and enforce the provisions in ORS Chapter 244 related to the conduct of public officials. In addition, the Commission has jurisdiction for ORS 171.725 through 171.992, related to lobbying regulations, and ORS 192.660, which are the executive session provisions of Oregon Public Meetings law.

The Commission publishes a guide for lobbyists and clients or employers of lobbyists regulated under provisions in ORS Chapter 171. This guide for public officials includes a discussion of some provisions that may also apply to lobbying activities, which are addressed by Lobbying Regulations. This is especially true when a lobbying activity involves paying the expenses for meals, lodging, travel, entertainment or other financial benefits of a legislative or executive official. Under specific circumstances, ORS Chapter 244 would allow the payment of such expenses, but the public official may have a reporting requirement under ORS Chapter 244 and the source of the payment may be required to register as a lobbyist or report the expenditure. If you have questions regarding registering as a lobbyist, lobbying activity or reports for lobbying expenditures, please refer to our Guide to Lobbying in Oregon.

ORS 192.660 lists the specific criteria a governing body must use when convening an executive session. The statutory authority for executive sessions is limited to specific topics or procedures. This guide does not discuss that portion of the Oregon Public Meetings law, but there is a detailed discussion of ORS 192.660 in the Attorney General's Public Records and Meetings Manual, available on-line at [www.doj.state.or.us/public\\_records/manual.shtml](http://www.doj.state.or.us/public_records/manual.shtml).

This guide will discuss how the provisions in ORS Chapter 244 apply to public officials and will summarize Commission procedures. It should be used in conjunction with applicable statutes and rules. It is intended to be a useful discussion, in understandable terms, of topics and issues that are often the focus of inquiries the Commission receives from public officials and citizens. This guide should not be used as a substitute for a review of the specific statutes and rules.

You will find links to ORS Chapter 244, ORS Chapter 171.725 through 171.992, relevant Oregon Administrative Rules (OAR), and other publications referenced in this guide on the Commission's website at [www.oregon.gov/ogec](http://www.oregon.gov/ogec). Questions or comments may be submitted to the Commission by email at [ogec.mail@oregon.gov](mailto:ogec.mail@oregon.gov), by fax to 503-373-1456 or by telephone to 503-378-5105.

\*\*\*\*\*

## JURISDICTION

The jurisdiction of the Oregon Government Ethics Commission is limited to provisions in ORS Chapter 244, ORS 171.725 through 171.992 and ORS 192.660. Other Oregon statutes may also regulate the activities of elected officials and public employees. Some examples are:

- The Elections Division of the Secretary of State's Office regulates campaign finance and campaign activities.
- Criminal activity of any type would fall under the jurisdiction of federal, state or local law enforcement.
- The Commission does not have jurisdiction over the laws that govern public meetings or records, except for the executive session provisions in ORS 192.660.
- The Oregon Bureau of Labor and Industries investigates cases involving employment related sexual harassment or discrimination on the basis of race, religion, disability or gender.

There are occasions when a public official engages in conduct that may be viewed as unethical, but that conduct may not be governed by Oregon Government Ethics law. Without an apparent statutory violation, the following are some examples of conduct by public officials that are not within the authority of the Commission to address:

- An elected official making promises or claims that are not acted upon.
- Public officials mismanaging or exercising poor judgment when administering public money.
- Public officials being rude or unmannerly.
- Public officials using deception or misrepresenting information or events.

While the conduct described above may not be addressed in Oregon Government Ethics law, public agency policies and procedures may prohibit or redress the behavior. Please contact the Commission staff if you need further clarification regarding how the Oregon Government Ethics law may apply to circumstances you may encounter.

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## PUBLIC OFFICIAL: AN OVERVIEW

The provisions in Oregon Government Ethics law restrict some choices, decisions or actions of a public official. The restrictions placed on public officials are different than those placed on private citizens because service in a public office is a public trust and the provisions in ORS Chapter 244 were enacted to provide one safeguard for that trust.

Public officials must know that they are held personally responsible for complying with the provisions in Oregon Government Ethics law. This means that each public official must make a personal judgment in deciding such matters as the use of official position for financial gain, what gifts are appropriate to accept, or when to disclose the nature of conflicts of interest. If a public official fails to comply with the operative statutes, a violation cannot be dismissed by placing the blame on the public official's government employer or the governing body represented by the public official.

Since compliance is the personal responsibility of each public official, public officials need to familiarize themselves with the wide variety of resources that offer information or training on the provisions in Oregon Government Ethics law. First, there are the statutes in ORS Chapter 244 and the Oregon Administrative Rules (OAR) in Chapter 199. Second, the Commission website, [www.oregon.gov/ogec](http://www.oregon.gov/ogec), offers information, training and links to this guide, ORS Chapter 244 and OAR Chapter 199. Many government agencies offer training or the agency may request it from the Commission's trainers. There are a number of membership organizations, such as The League of Oregon Cities, Association of Oregon Counties, Oregon School Boards Association and Oregon Special Districts Association that provide training to public officials from their government members. It is imperative for government agencies or organizations that employ or represent public officials to ensure their public officials receive training in Oregon Government Ethics law. Those that fail to provide this training do a disservice to the public officials who they employ or who represent them.

One provision, which is the cornerstone of Oregon Government Ethics law, prohibits public officials from using or attempting to use their official positions or offices to obtain a financial benefit for themselves, relatives or businesses they are associated with through opportunities that would not otherwise be available but for the position or office held.

Public officials are allowed to receive salary and reimbursed expenses from their own government agencies. Under specific conditions public officials may also accept gifts. This guide will discuss those provisions.

Another provision that frequently applies to public officials when engaged in official actions of their official positions or offices is the requirement to disclose the nature of conflicts of interest. This guide will discuss the definition of a conflict of interest and describe the methods a public official must follow when met with a conflict of interest.

There is a requirement for some public officials who are elected to offices or hold other select positions to file an Annual Verified Statement of Economic Interest form. This guide

will discuss that filing requirement.

It is important for both public officials and members of the general public served by public officials to know that the provisions in Oregon Government Ethics law apply to the actions and conduct of individual public officials and not the actions of state and local governing bodies or government agencies. Each individual public official is personally responsible for complying with provisions in ORS Chapter 244. The statutes and rules discussed or illustrated in this guide do not and cannot address every set of circumstances a public official may encounter. When a public official is anticipating an official action or participation in an official event they must make a personal judgment as to the propriety of the action or the participation. The Commission staff is available to discuss the issues and offer guidance in making such judgments.

Oregon Government Ethics law addresses a wide range of actions, situations or events which a public official may encounter while serving a state or local government. This guide provides a discussion of the provisions that apply to circumstances that most public officials may encounter.

\*\*\*\*\*



## A PUBLIC OFFICIAL

### Are you a public official?

“Public official” is defined in [ORS 244.020\(14\)](#)<sup>1</sup> as any person who, when an alleged violation of ORS Chapter 244 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.

There are approximately 200,000 public officials in Oregon. You are a public official if you are:

- Elected or appointed to an office or position with a state, county or city government.
- Elected or appointed to an office or position with a special district.
- An employee of a state, county or city agency or special district.
- An unpaid volunteer for a state, county or city agency or special district.
- Anyone serving the State of Oregon or any of its political subdivisions, such as the State Accident Insurance Fund or the Oregon Health & Science University.

The Commission has adopted, by rule, additional language used to clarify the use of “agent” in the definition of “public official.” The following is OAR 199-005-0035(7):

“As defined in ORS 244.020(14), a public official includes anyone serving the State of Oregon or any of its political subdivisions or any other public body in any of the listed capacities, including as an “agent.” An “agent” means any individual performing governmental functions. Governmental functions are services provided on behalf of the government as distinguished from services provided to the government. This may include private contractors and volunteers, depending on the circumstances. This term shall be interpreted to be consistent with Attorney General Opinion No. 8214 (1990).”

### If I am a volunteer, does that make me a public official?

If the position for which you have volunteered serves the State of Oregon or any of its political subdivisions or any other public body, “irrespective of whether” you are “compensated” you are a public official. It is difficult to determine how many public officials are volunteers, but the number may approach 50,000. Volunteers may be elected, appointed or selected by the government agency or public body to hold a position or office or to provide services.

Among the public officials who volunteer, there are elected or appointed members of

governing bodies of state boards or commissions, city councils, planning commissions, fire districts, school districts and many others. There are also many who apply and are selected to perform duties for a government agency, board or commission without compensation, such as fire fighters, reserve law enforcement officers and parks or recreation staff members.

The Commission recognizes that there are many who volunteer to work without compensation for many state and local government agencies, boards, commissions and special districts. This guide provides criteria to identify volunteers who will be considered public officials when applying the provisions in ORS Chapter 244.

If any one of the following elements apply to a volunteer position, the person holding that volunteer position will be defined as a “public official”:

- Elected or appointed to a governing body of a public body
- Appointed or selected for a position with a governing body or a government agency with responsibilities that include deciding or voting on matters that could have a pecuniary impact on the governing body, agency or other persons
- The volunteer position includes all of the following:
  1. Responsible for specific duties
  2. The duties are performed at a scheduled time and designated place.
  3. Volunteer is provided with the use of the public agency’s resources and equipment.
  4. The duties performed would have a pecuniary impact on any person, business or organization served by the public agency.

For purposes of ORS Chapter 244, volunteers are not public officials if they perform such tasks as picking up litter on public lands, participating in a scheduled community cleanup of buildings or grounds, participating in locating and eradicating invasive plants from public lands and other such occasional or seasonal events.

### **How are relatives of public officials affected by Oregon Government Ethics law?**

Public officials must always comply with state law when participating in official actions that could result in personal financial benefits and also when participating in official actions that could result in financial benefits for a relative. Public officials should also know there may be limits and restrictions on gifts their relatives may accept when offered.

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using or attempting to use official actions of the position held to benefit a relative; or may limit the value of financial benefits accepted by a relative of the public official or may require the public official to disclose the nature of a conflict of interest when a relative may receive a financial benefit. These provisions are discussed more comprehensively in the use of

position or office section starting on page 9, the gifts section starting on page 26 and the conflicts of interest section starting on page 21.

### **Who is a relative?**

Public officials need to know how Oregon Government Ethics law defines who a “relative” is. In everyday conversation the use of “relative” is applied to a broader spectrum of individuals with “family ties” than those defined as relatives in [ORS 244.020\(15\)](#)<sup>2</sup>. When a provision in ORS Chapter 244 refers to “relative” it means one of the following:

- **Spouse** of a public official or candidate
- **Children** of a public official or candidate
- **Children of the spouse** of a public official or candidate
- **Siblings** of a public official or candidate
- **Siblings of the spouse** of a public official or candidate
- **Spouse of siblings** of a public official or candidate
- **Spouse of siblings of the spouse** of a public official or candidate
- **Parents** of the of public official or candidate
- **Parents of the spouse** of a public official or candidate
- **Person** for whom the public official or candidate has a **legal support obligation**
- **Person benefiting from a public official** when benefits are from the public official’s public employment
- **Person who provides benefits to a public official** or candidate when benefits are from the person’s employment

For purposes of “relatives” defined by the last two bulleted items, examples of benefits may include, but not be limited to, elements of an official compensation package including benefits such as insurance, tuition or retirement allotments.

### **How do the laws apply to a public official who either owns or is employed by a private business?**

As with the definition of relative, public officials need to know how Oregon Government Ethics law defines what a “business” is or what a “business with which the person is associated is.” The same sound judgment a public official exercises when participating in actions that could result in a financial benefit to the public official or a relative of the public official should be used when participating in actions that could result in a financial benefit to a business with which the public official or the relative is associated.

There are provisions in ORS Chapter 244 that restrict or prohibit a public official from using actions of the position held to benefit a business with which the public official or a relative is associated. The provisions may also require the public official to disclose the nature of a conflict of interest when a business may receive a financial benefit.

[ORS 244.020\(2\)](#)<sup>3</sup> provides the definition of a “**business**,” paraphrased as follows:

A “business” is a legal entity that has been formed for the purpose of producing income.

- Excluded from this definition are income-producing organizations that are not-for-profit and tax exempt under section 501(c) of the Internal Revenue Code, if a public official or a relative of the public official holds membership or an unpaid position as a member of the board of directors.
- It is important to remember that state and local government or special district entities are not formed for the purpose of producing income, which means they are not businesses.

[ORS 244.020\(3\)](#)<sup>4</sup> provides the definition of a “**business with which the person is associated,**” paraphrased as follows:

In brief, a public official or the relative of the public official is associated with a business in the following circumstances:

- When, during the preceding calendar year, a public official or relative has held a position as director, officer, owner, employee or agent of a private business or a closely held corporation in which the public official or relative held or currently holds stock, stock options, equity interest or debt instrument over \$1,000.
- When, during the preceding calendar year, the public official or relative has owned or currently owns stock, equity interest, stock options or debt instruments of \$100,000 or more in a publicly held corporation.
- When the public official or relative is a director or officer of a publicly held corporation.
- When a public official is required by [ORS 244.050](#)<sup>5</sup> to file an Annual Verified Statement of Economic Interest form and the business is listed as a source of household income.

\*\*\*\*\*

## USE OF POSITION OR OFFICE

### What are the provisions of law that prohibit a public official from using the position or office held for financial gain?

As defined earlier, public officials become public officials through employment, appointment, election or volunteering. [ORS 244.040\(1\)](#)<sup>6</sup> **prohibits every public official from using or attempting to use the position held as a public official to obtain a financial benefit, if the opportunity for the financial benefit would not otherwise be available but for the position held by the public official.** The financial benefit prohibited can be either an opportunity for gain or to avoid an expense.

Not only is a public official prohibited from using the position as a public official to receive certain financial benefits, but the public official is prohibited from using or attempting to use the position as a public official to obtain financial benefits for a relative or a member of the public official's household. Also prohibited is the use or attempted use of the public official position to obtain financial benefits for a business with which the public official, a relative, or a member of the public official's household is associated.

Public officials often have access to or manage information that is confidential and not available to members of the general public. [ORS 244.040\(4\)](#)<sup>7</sup> **specifically prohibits public officials from attempting to use confidential information** gained because of the position held or by carrying out assigned duties to further the public official's personal gain. [ORS 244.040\(5\)](#)<sup>8</sup> **also prohibits a former public official from attempting to use confidential information for personal gain** if that confidential information was obtained while holding the position as a public official, from which access to the confidential information was obtained.

[ORS 244.040\(6\)](#)<sup>9</sup> **also has a single provision to address circumstances created when public officials, who are members of the governing body of a public body, own or are associated with a specific type of business.** The type of business is one that may occasionally send a representative of the business who appears before the governing body on behalf of a client for a fee. Public officials who are members of governing bodies and own or are employed by businesses, such as a law, engineering or architectural firm, may encounter circumstances in which this provision may apply. For example, a member of a city council who is an architect has a developer as a client of the architect's business. If the developer has a proposed subdivision to be approved by the city council, the architect may not appear before the city council on behalf of the client developer. Another person representing the client developer on behalf of the architect's business may appear, but not the councilor/architect.

There are a variety of actions that a public official may take or participate in that could constitute the prohibited use or attempted use of the public official position. The use of a position could be voting in a public meeting, placing a signature on a government agency's document, making a recommendation, making a purchase with government agency funds, conducting personal business on a government agency's time or with a government

agency's resources [i.e. computers, vehicles, heavy equipment or office machines].

The following examples are offered to illustrate what may constitute prohibited use or attempted use:

- The mayor of a city signs a contract obligating the city to pay for janitorial services provided by a business owned by a relative of the mayor.
- A city treasurer signs a city check payable to an office supply business that is owned by a relative.
- A city billing clerk alters water use records so that the amount billed to the clerk's parents will be less than the actual amount due.
- A volunteer firefighter borrows the fire district's power washer to prepare the exterior of the volunteer's personal residence for painting.
- A county public works employee stores a motor home that is owned by the employee's parents in a county building used for storing heavy equipment.
- An employee of a state agency has a private business and uses the agency's computer to advance the business by promoting, corresponding and managing the activities of the private business.
- A school district superintendent approves and signs her own request for reimbursement of personal expenses the superintendent incurred when conducting official business.

**NOTE:** While these examples are offered to illustrate the use of a public official's position prohibited by ORS 244.040(1), the practices in the examples may also illustrate occasions where a public official may be met with a conflict of interest as defined in [ORS 244.020\(1\)](#)<sup>10</sup> and [ORS 244.020\(12\)](#).<sup>11</sup> There are circumstances when a public official may comply with provisions in ORS 244.040(1) while violating conflict of interest provisions in ORS 244.120 or the reverse [ORS 244.040(7)]. Refer to the detailed discussion of conflicts of interest starting on page 21.

**Are there any circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official?**

Yes, [ORS 244.040\(2\)](#)<sup>12</sup> provides a list of financial benefits that would not otherwise be available to public officials but for holding the position as a public official. The following financial benefits are not prohibited and may be accepted by a public official and some may also be accepted by a public official's relative or member of the public official's household:

**Official Compensation:** Public officials may accept any financial benefit that is identified by the public body served by the public official as part of the "official compensation package" of the public official. If the public body identifies such benefits as salary, health insurance or various paid allowances in the employment agreement or contract of a public official, those financial benefits are part of the "official compensation package." [ORS 244.040(2)(a)]

OAR 199-005-0035(3) provides a definition of “official compensation package:”

An “official compensation package” means the wages and other benefits provided to the public official. To be part of the public official's “official compensation package”, the wages and benefits must have been specifically approved by the public body in a formal manner, such as through a union contract, an employment contract, or other adopted personnel policies that apply generally to employees or other public officials. “Official compensation package” also includes the direct payment of a public official's expenses by the public body, in accordance with the public body's policies.

The Commission often receives complaints that allege that a public official is using or attempting to the position held to gain financial benefits prohibited by ORS 244.040(1). Occasionally the financial benefits in these complaints are gained through the use of the public body's resources. Some examples are use of a vehicle for personal transportation, use of a computer for a personal private business enterprise or use of telecommunications equipment for personal business. Some respondents to complaints that involve the use a public body's resources will defend their use as being consistent with an informal longstanding practice. The financial benefit to a public official, from the use of a public body's resources, from what may be understood as an informal and longstanding practice does not meet the definition of part of an “official compensation package.” This is because the practice has not been specifically approved by the public body in a formal manner.

Reimbursement of Expenses: A public official may accept payments from the public official's public body as reimbursement for expenses the public official has personally paid while conducting the public body's business [ORS 244.040(2)(c)].

The Commission has provided a definition in OAR 199-005-0035(4):

The “reimbursement of expenses’ means the payment by a public body to a public official serving that public body, of expenses incurred in the conduct of official duties on behalf of the public body. Any such repayment must comply with any applicable laws and policies governing the eligibility of such repayment.”

There are occasions when someone will refer to the payment of a public official's expenses by a person or entity other than the public official's public body as a reimbursement of expenses. That is not the reimbursement of expenses as used in ORS 244.040(2)(c) and defined in OAR 199-005-0035(4). If the payment of a public official's personal expenses does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244.

There are occasions when public officials are reimbursed for travel expenses the public official has paid while conducting official duties on behalf of the public official's public body. Sometimes the public body will prearrange for a public official's travel and pay the expenses in advance. Such advance payments are also viewed by the Commission

as the reimbursement of expenses allowed by ORS 244.040(2)(c).

Some public officials hold positions identified in ORS 244.050 as having a requirement to file the Annual Verified Statement of Economic Interest (SEI) form in April of each year. This requirement will be discussed elsewhere in this guide, but some who must submit the SEI forms believe that travel related expenses paid by the public official's public body must be listed in the SEI form. That is not true. Expenses paid by the public body to their own public officials need not be reported by the public official under ORS 244.060 [OAR 199-005-0035(4)].

Honorarium: Public officials are allowed to accept honorarium by ORS 244.040(2)(b) as it is defined in [ORS 244.020\(7\)](#)<sup>13</sup>. A public official must know how honorarium is defined because there are many occasions when someone will offer them a financial benefit and call it an honorarium, but it does not meet the definition of honorarium in ORS 244.020(7).

A payment or something of economic value given to a public official in exchange for services provided by the public official is an honorarium when the setting of the economic value has been prevented by custom or propriety. The services provided by a public official may include but not be limited to speeches or other services provided in connection with an event. A public official may not accept honorarium if the value exceeds \$50 [[ORS 244.042\(3\)\(a\)](#)]<sup>14</sup>].

In brief, for a payment or something of economic value to be defined as an honorarium, several conditions must be met:

- The offer of a payment or something of economic value cannot be arranged or agreed to before the public official provides services.
- The services provided by the public official must precede the offer of payment or something of economic value.
- The payment or something of economic value must be delivered in return for and following the delivery of services.

Public officials may accept honorarium for services performed in relation to the private profession of the public official, although public officials must be sure, when they are offered a payment or something of economic value and it is referred to as an honorarium, that it does meet the definition in ORS 244.020(7). If it does not meet this definition, it may be a financial benefit prohibited or restricted by other provisions in ORS Chapter 244.

Awards for Professional Achievement: Public officials may accept an award, if the public official has not solicited the award, and the award is offered to recognize a professional achievement of the public official [ORS 244.040(2)(d)].

Awards for professional achievement should not be confused with awards of appreciation, allowed by [ORS 244.020\(6\)\(b\)\(C\)](#)<sup>15</sup>, honorarium allowed by ORS 244.040(2)(b), or gifts that are allowed or restricted by other provisions in ORS Chapter 244.



Awards for professional achievement are best illustrated by awards that denote national or international recognition of a public official's achievement. These awards may also be offered by public or private organizations in the state that are meant to recognize a public official for an achievement. Professional achievements recognized may be identified as a single accomplishment or an accomplishment achieved during a period of time, such as a calendar year or a public official's career upon retirement. Public officials may be educators, lawyers, certified public accountants or may hold a doctorate in some field. These public officials may receive awards recognizing achievements in their fields and those awards would be considered by the Commission to be awards regulated by ORS 244.040(2)(d).

Contributions to Legal Expense Trust Fund: There are provisions in [ORS 244.209](#)<sup>16</sup> that allow public officials who have become a respondent to a complaint under Oregon Government Ethics law to establish a legal expense trust fund. ORS 244.040(2)(h) allows a public official who has established this trust fund to solicit, accept and be the trustee for contributions to the established fund.

Gifts: Public officials may accept gifts [ORS 244.040(2)(e),(f) and (g)]. There are circumstances in which there are no limits on the quantity or aggregate value of gifts that can be accepted by a public official. On the other hand, there are circumstances when the aggregate value of gifts accepted by a public official is restricted. There may also be reporting requirements that apply to public officials who accept gifts and to sources that provide the gifts. Refer to the detailed discussion of issues related to gifts starting on page 26.

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## NEPOTISM

### Does Oregon Government Ethics law prevent two or more relatives from being employees of the same public body?

No. Public officials who are relatives can be employed by the same public body employer at the same time, or serve on the same governing body of a public body at the same time.

However, ORS Chapter 244 does address the issue of “nepotism.” Nepotism, as used in ORS Chapter 244, is based on the relative relationship alone. The definition of “relative” in ORS Chapter 244 [ORS 244.175(4)] takes on a broader meaning when applying [ORS 244.175 through ORS 244.179](#)<sup>17</sup>:

- **Spouse** of a public official
- **Children** of the public official or spouse
- **Parents** of the public official or spouse
- **Stepparents** of the public official or spouse
- **Stepchildren** of the public official or spouse
- **Brothers** of the public official or spouse
- **Sisters** of the public official or spouse
- **Half-brothers** of the public official or spouse
- **Half-sisters** of the public official or spouse
- **Brothers-in-law** of the public official or spouse
- **Sisters-in-law** of the public official or spouse
- **Sons-in-law** of the public official or spouse
- **Daughters-in-law** of the public official or spouse
- **Mothers-in-law** of the public official or spouse
- **Fathers-in-law** of the public official or spouse
- **Aunts** of the public official or spouse
- **Uncles** of the public official or spouse
- **Nieces** of the public official or spouse
- **Nephews** of the public official or spouse

### What are the provisions that address nepotism?

After complying with the conflict of interest provisions in [ORS 244.120](#)<sup>18</sup>, public officials cannot participate in any personnel action taken by the public agency that would impact the employment of a relative or member of the public official’s household. A public official may not participate in the following [\[ORS 244.177\(1\)\]](#):<sup>19</sup>

- Appointing, employing or promoting
- Discharging, firing or demoting
- Interviewing
- Discussing or debating the appointment, employment, promotion, discharge, firing or demotion

**NOTE:** Public officials who are elected members of the Oregon Legislative Assembly are not prohibited from participating in employment actions taken on positions held by relatives of the member's personal staff [[ORS 244.177\(2\)](#)]<sup>20</sup>.

A public official who is assigned duties that include performing "ministerial acts" related to any stage of a relative's employment is not prohibited from performing such acts. "Ministerial acts" would include mailing or filing forms or correspondence, taking and relaying messages, scheduling appointments or preparing documents and minutes for public meetings.

A public official may serve as a reference or provide a recommendation for a relative who has applied for a position of employment, promotion or is subject to any personnel action.

If a public official has a relative or a member of the public official's household who has applied to be or serves as an unpaid volunteer, the public official may participate in any personnel action that involves the relative or member of the household. This provision only applies to unpaid volunteers who provide services to the public body and does not apply to unpaid volunteers who serve or seek appointment to a governing body of a public body. [[ORS 244.177\(3\)\(a\) and \(b\)](#)]<sup>21</sup>

A public official may not directly **supervise** a person who is a relative or member of the public official's household [[ORS 244.179](#)]<sup>22</sup>, except when:

- The public official is an elected member of the Oregon Legislative Assembly
- The public official is supervising an unpaid volunteer for the public body

Volunteers who are relatives or members of the household of a public official may be supervised by the public official. However, this would not apply if the volunteer position is as a member of the governing body of the public body. [[ORS 244.179\(3\)](#)]

ORS 244.179(4) allows a public body to adopt policies that specify when a public official, acting in an official capacity for the public body, may directly supervise a person who is a relative or member of the public official's household.

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## PRIVATE EMPLOYMENT OF PUBLIC OFFICIAL

**Does Oregon Government Ethics law prohibit a public official from owning a private business or working for a private employer while continuing employment with or holding a position with a public body?**

No. As mentioned earlier, many public officials are volunteers, meaning there is little or no compensation for the public position. Other public officials may receive compensation, but choose to seek additional sources of income. Some work for a private business and others establish a private business of their own. **NOTE: This guide does not address other statutes or agency policies that may limit private employment for public officials.**

[ORS 244.040\(3\)](#)<sup>23</sup> prohibits a public official from, directly or indirectly, soliciting or accepting the promise of future employment based on the understanding that the offer is influenced by the public official's vote, official action or judgment. Any employer who may directly or indirectly offer employment under these conditions may also violate this provision.

In general, public officials may obtain employment with a private employer or engage in private income producing activity of their own. They must not use the position held as a public official to create the opportunity for additional personal income. The public official must also ensure that there is a clear distinction between the use of personal resources and time for personal income producing activity and the use of the public body's time and resources. The Commission has created guidelines for public officials to follow in order to avoid violating Oregon Government Ethics law when engaged in private employment or a personally owned business.

### **GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS**

1. Public officials are not to engage in private business interests or other employment activities on their governmental agency's time.
2. A governmental agency's supplies, facilities, equipment, employees, records or any other public resources are not to be used to engage in private business interests.
3. The position as a public official is not to be used to take official action that could have a financial impact on a private business with which you, a relative or member of your household are associated.
4. Confidential information gained as a public official is not to be used to obtain a financial benefit for the public official, a relative or member of the public official's household or a business with which any are associated.
5. When participating in an official capacity and met with a potential or actual conflict of interest related to a business, associated with the public official, relative or household member, the public official must disclose the nature of the conflict of interest using one of the following methods:
  - Employees of governmental agencies must give written notice to their appointing authority.
  - Elected or appointed public officials must publicly disclose once during each meeting convened by the governing body they serve.

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## EMPLOYMENT OF FORMER PUBLIC OFFICIALS

**How would Oregon Government Ethics law apply when a former public official is employed by a business that has a contract with the public body previously represented by the former public official?**

For two years after a public official ceases holding or being employed in a position as a public official, that public official may not have a direct beneficial financial interest in a public contract when one of the parties to the contract is the public official's former public body if the contract was authorized by [\[ORS 244.047\(2\) and \(3\)\]](#).<sup>24</sup>

- The former public official, who authorized the contract while acting in the capacity previously held as a public official.
- The former public official, as a member of a governing body [board, commission, council, bureau, committee], participated in official action to approve the contract.

“Authorized by” is defined in OAR 199-005-0035(6) as meaning that the former public official had a significant role in the contracting process to include participating on a selection committee, recommending approval, voting, giving final authorization or signing a contract. The definition in the rule is as follows:

“As used in ORS 244.047, a public contract is “authorized by” a public official if the public official performed a significant role in the selection of a contractor or the execution of the contract. A significant role can include recommending approval or signing of the contract, including serving on a selection committee or team, or having the final authorizing authority for the contract.

**What are the restrictions on employment after I resign, retire or leave my public official position?**

- ORS 244.040(1) prohibits public officials from using their official positions or offices to create a new employment opportunity; otherwise, most former public officials may enter the private work force with few restrictions.
- ORS 244.040(5) prohibits a former public official from attempting to use confidential information for personal gain if the confidential information was obtained while holding the position as a public official.
- Oregon Government Ethics law restricts the subsequent employment of certain public officials. The restrictions apply to positions listed below:

[ORS 244.045\(1\)](#)<sup>25</sup>

State Agencies:

Director of Department of Consumer and Business Services

Administrator of Division of Finance and Corporate Securities  
Administrator of Insurance Division  
Administrator of Oregon Liquor Control Commission  
Director of Oregon State Lottery  
Public Utility Commissioner

1. One year restriction on gaining financial benefits from a private employer in the activity, occupation or industry that was regulated by the agency for which the public official was the Director, Administrator or Commissioner.
2. Two year restriction on lobbying or appearing as a representative before the agency on behalf of the activity, occupation or industry regulated by the agency for which the public official was the Director, Administrator or Commissioner.
3. Two year restriction on disclosing confidential information gained as the Director, Administrator or Commissioner for the agency.

[ORS 244.045\(2\)](#)<sup>26</sup>

Oregon Department of Justice:

Deputy Attorney General  
Assistant Attorney General

1. Restricted for two years from lobbying or appearing before an agency that they represented while with the Department of Justice.

[ORS 244.045\(3\)](#)<sup>27</sup>

Office of the Treasurer:

State Treasurer  
Chief Deputy State Treasurer

1. Restricted for one year from accepting financial benefit from a private entity with which there was negotiation or contract awarding \$25,000 in one year by the State Treasurer or Oregon Investment Council.
2. Restricted for one year from accepting financial benefit from a private entity with which there was investment of \$50,000 in one year by the State Treasurer or Oregon Investment Council.
3. Restricted for one year from being a lobbyist for an investment institution, manager or consultant or from appearing as a representative of an investment institution, manager or consultant before the office of State Treasurer or Oregon Investment Council.

[ORS 244.045\(4\)](#)<sup>28</sup>

Public Officials who invested public funds:

1. Restricted for two years from being a lobbyist or appearing before the agency, board or commission for which public funds were invested.
2. Restricted for two years from influencing or trying to influence the agency, board or commission.
3. Restricted for two years from disclosing confidential information gained through employment.

[ORS 244.047](#)<sup>29</sup>

Public Officials who authorized a public contract:

1. A public official who authorized or had a significant role in a contract while acting in an official capacity may not have a direct, beneficial, financial interest in the public contract for two years after leaving the official position.
2. A member of a board, commission, council, bureau, committee or other governing body who has participated in the authorization of a public contract may not have a direct, beneficial, financial interest in the public contract for two years after leaving the official position.

OAR 199-005-0035(6) indicates that “authorized by” means that public official performed a significant role in the selection of a contractor or the execution of the contract. A significant role can include recommending approval of a contract, serving on a selection committee or team, having the final authorizing authority or signing a contract.

[ORS 244.045\(5\)\(a\)](#)<sup>30</sup>

Department of State Police

Supervising programs related to Native American tribal gaming  
Supervising programs related to Oregon State Lottery

1. Restricted for one year from accepting employment from or gaining financial benefit related to gaming from the Lottery or a Native American Tribe.
2. Restricted for one year from gaining financial benefit from a private employer who sells gaming equipment or services.
3. Restricted for one year from trying to influence the Department of State Police or from disclosing confidential information.

Exceptions include subsequent employment with the state police,



appointment as an Oregon State Lottery Commissioner, Tribal Gaming Commissioner or lottery game retailer, or personal gaming activities.

[ORS 244.045\(6\)<sup>31</sup>](#)

Legislative Assembly

Representative

Senator

After a legislator's membership in the Legislative Assembly ends, a legislator may not become a compensated lobbyist until adjournment of the next regularly scheduled session of the Legislative Assembly following the end of membership in the Legislative Assembly. *[Note: In 2008 and 2010, the first special sessions are considered to be regular sessions.]*

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## CONFLICTS OF INTEREST

**How does a public official know when they are met with a conflict of interest and, if met with one, what must they do?**

Oregon Government Ethics law identifies and defines two types of conflicts of interest. An **actual conflict of interest** is defined in [ORS 244.020\(1\)](#)<sup>32</sup> and a **potential conflict of interest** is defined in [ORS 244.020\(12\)](#)<sup>33</sup>. In brief, a public official is met with a conflict of interest when participating in official action which could or would result in a financial benefit or detriment to the public official, a relative of the public official or a business with which either is associated.

**The difference between an actual conflict of interest and a potential conflict of interest is determined by the words “would” and “could.”** A public official is met with an **actual** conflict of interest when the public official participates in action that **would** affect the financial interest of the official, the official's relative or a business with which the official or a relative of the official is associated. A public official is met with a **potential** conflict of interest when the public official participates in action that **could** affect the financial interest of the official, a relative of that official or a business with which the official or the relative of that official is associated. The following hypothetical circumstances are offered to illustrate the difference between actual and potential conflicts of interest:

A city councilor is employed by a building supply business from which the city public works director purchases building materials. City payments on invoices must be submitted to the city council and approved by a vote. The city councilor, who is employed by the building supply business, while participating in a meeting, would be met with an **actual conflict of interest** when the request to pay the invoice from the business that employs the councilor is presented to the city council for official action.

A member of a fire district board of directors owns a sheetrock contracting business. The fire district is planning to remodel a fire station in the district. To reduce cost, the district will manage the project and solicit bids from contractors for specified work, such as the sheetrock that needs to be installed. The member on the board of directors, who is the contractor, while participating in a meeting of the board of directors, would be met with a **potential conflict of interest** when the members discuss or act on the invitation for bids on the sheetrock installation.

### **What if I am met with a conflict of interest?**

A public official must announce or disclose the nature of a conflict of interest. The way the disclosure is made depends on the position held. The following public officials must use the methods described below:

#### **Legislative Assembly:**

Members must announce the nature of the conflict of interest in a manner pursuant

to the rules of the house in which they serve. The Oregon Attorney General has determined that only the Legislative Assembly may investigate and sanction its members for violations of conflict of interest disclosure rules in [ORS 244.120\(1\)\(a\)](#)<sup>34</sup>. [49 Op. Atty. Gen. 167 (1999) issued on February 24, 1999]

**Judges:**

Judges must remove themselves from cases giving rise to the conflict of interest or advise the parties of the nature of the conflict of interest. [\[ORS 244.120\(1\)\(b\)\]](#)<sup>35</sup>

**Public Employees:**

Public officials in public bodies who are appointed, employed or volunteer must provide a written notice to the person who appointed or employed them. The notice must describe the nature of the conflict of interest with which they are met. [\[ORS 244.120\(1\)\(c\)\]](#)<sup>36</sup>

**Elected Officials or Appointed Members of Boards and Commissions:**

Except for members of the Legislative Assembly, these public officials must publicly announce the nature of the conflict of interest before participating in any official action on the issue giving rise to the conflict of interest. [\[ORS 244.120\(2\)\(a\) and ORS 244.120\(2\)\(b\)\]](#)<sup>37</sup>

- **Potential Conflict of Interest:** Following the public announcement, the public official may participate in official action on the issue that gave rise to the conflict of interest.
- **Actual Conflict of Interest:** Following the public announcement, the public official must refrain from further participation in official action on the issue that gave rise to the conflict of interest. [\[ORS 244.120\(2\)\(b\)\(A\)\]](#)<sup>38</sup>

If a public official is met with an actual conflict of interest and the public official's vote is necessary to meet the minimum number of votes required for official action, the public official may vote. The public official must make the required announcement and refrain from any discussion, but may participate in the vote required for official action by the governing body. [\[ORS 244.120\(2\)\(b\)\(B\)\]](#)<sup>39</sup> These circumstances do not often occur. This provision does not apply in situations where there are insufficient votes because of a member's absence when the governing body is convened. Rather, it applies in circumstances when all members of the governing body are present and the number of members who must refrain due to actual conflicts of interest make it impossible for the governing body to take official action.

**The following circumstances may exempt a public official from the requirement to make a public announcement or give a written notice describing the nature of a conflict of interest:**

- If the conflict of interest arises from a membership or interest held in a particular business, industry, occupation or other class and that membership is a prerequisite

for holding the public official position. [\[ORS 244.020\(12\)\(a\)\]](#)<sup>40</sup> For example, if a

member of a state board is required by law to be employed in a specific occupation, such as an accountant or a doctor, then the official actions taken by the board member that affect all accountants or doctors to the same degree would be exempt from the conflict of interest disclosure requirements and participation restrictions.

- If the financial impact of the official action would impact the public official, relative or business of the public official to the same degree as other members of an identifiable group or “class”. The Commission has the authority to identify a group or class and determine the minimum size of that “class.” [\[ORS 244.020\(12\)\(b\)\]](#)<sup>41</sup> and [\[ORS 244.290\(3\)\(a\)\]](#)<sup>42</sup> For example, if a county commissioner votes to approve a contract to improve or maintain a county road that leads to the property the commissioner owns, but the improvements would also benefit many other property owners to the same degree, the commissioner would be exempt from the conflict of interest disclosure requirements and participation restrictions. The number of persons affected to the same degree as the public official will help to determine whether this exception applies.
- If the conflict of interest arises from an unpaid position as officer or membership in a nonprofit corporation that is tax-exempt under 501(c) of the Internal Revenue Code. [\[ORS 244.020\(12\)\(c\)\]](#)<sup>43</sup> For example, a city councilor is also an unpaid board member or member at the local YMCA. The decision, as a city councilor, to award a grant to that YMCA would be exempt from the conflict of interest disclosure requirements and participation restrictions.

#### **How is the public announcement of the nature of a conflict of interest recorded?**

- The public body that is served by the public official will record the disclosure of the nature of the conflict of interest in the official records (minutes, audio/video recording) of the public body. [\[ORS 244.130\(1\)\]](#)<sup>44</sup>

#### **Is a public official required to make an announcement of the nature of a conflict of interest each time the issue giving rise to the conflict of interest is discussed or acted upon?**

- The announcement needs to be made on each occasion when the public official is met with the conflict of interest. Each time a public official is met with a conflict of interest the nature must be disclosed. For example, an elected member of the city council would have to make the public announcement one time when met with the conflict of interest, but only one time in each meeting of the city council. If the matter giving rise to the conflict of interest is raised at another meeting, the disclosure must be made again at that meeting. Another example would involve an employee in a city planning department who would have to give a separate written notice before each occasion they encounter a matter that gives rise to a conflict of interest. [\[ORS 244.120\(3\)\]](#)<sup>45</sup>

#### **If a public official failed to announce the nature of a conflict of interest and participated in official action, is the official action voided?**

- No. Any official action that is taken 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 [\[ORS 244.130\(2\)\]](#)<sup>46</sup>. However, the public official faces the potential of personal liability for the violation.

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## LEGAL EXPENSE TRUST FUND

**If a public official is the respondent to a complaint, can the public official solicit funds in order to pay for the cost of a legal defense?**

The Oregon Government Ethics Commission can authorize a public official to establish a trust fund to be used to defray expenses incurred for a legal defense in any civil, criminal or other legal proceeding that relates to or arises from the course and scope of duties of the person as a public official. [\[ORS 244.205\]](#)<sup>47</sup>

The provisions regarding the establishment of this fund are detailed in [ORS 244.205 through ORS 244.221](#)<sup>48</sup>. If a public official is considering the need to establish a legal expense trust fund, these provisions should be reviewed. The Commission staff is available to provide guidance on the procedures. The following are some of the significant elements of a legal expense trust fund:

- A public official may only have one trust fund at any one time [\[ORS 244.205\(4\)\]](#)<sup>49</sup>.
- The application to establish the fund must be submitted to the Commission for review and authorization. [ORS 244.209](#)<sup>50</sup> details what information and documents must accompany the application.
- The public official may act as the public official's fund trustee [\[ORS 244.211\(2\)\]](#)<sup>51</sup>.
- Once authorized and established, any person may contribute to the fund [\[ORS 244.213\]](#)<sup>52</sup>.
- Contributions from a principal campaign committee are not allowed [\[ORS 244.213\(3\)\]](#)<sup>53</sup>.
- Funds must be maintained in a single exclusive account [\[ORS 244.215\]](#)<sup>54</sup>.
- Quarterly reports of contributions and expenditures from the fund are required [\[ORS 244.217\]](#)<sup>55</sup>.
- The fund must be terminated within six months after the legal proceeding for which the fund was established has been concluded [\[ORS 244.219\]](#)<sup>56</sup>.
- When terminated, funds must be used to pay legal expenses, returned to contributors or donated to an organization exempt from taxation under section 501(c)(3) of the internal Revenue Code [\[ORS 244.221\]](#)<sup>57</sup>.

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## GIFTS

When Oregon Government Ethics law uses the word “gift” it has the meaning in ORS 244.020(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.”

**The Commission interprets “others” to indicate a significant portion of the general public in Oregon who are not public officials or candidates.**

In other words, a “gift” is something of economic value that is offered to,

- A public official or candidate or to relatives or members of the household of a public official or candidate,
- Without cost or at a discount or as forgiven debt and,
- The same offer is not made or available to the general public who are not public officials or candidates.

**[NOTE:** In the following discussion, references to candidates are omitted to simplify the discussion. In most of the discussion, if you are a candidate, read the references to public official to mean “public official or candidate, if elected.”]

Oregon Government Ethics law establishes a framework of conditions for public officials to apply when they, their relatives or members of their households are offered gifts. If offered a gift, the public official must analyze the offer and decide if “something of value” can be accepted with or without restrictions.

There are restrictions on the value of gifts accepted by a public official, if the source of the gift has a legislative or administrative interest in decisions or votes the public official makes when acting in the capacity of a public official.

Legislative or administrative interest is defined in [ORS 244.020\(9\)](#)<sup>58</sup> and is used, primarily, when applying the law to gifts accepted by public officials. Whether there is a legislative or administrative interest is pivotal to any decision a public official makes on accepting gifts. It

will mean the difference between being allowed to accept gifts without limits, accepting gifts with a limit of \$50 on the aggregate value, or accepting gifts under specific conditions and within specific parameters. As will be apparent in the following discussion, the burden of any decision on accepting a gift rests solely with the individual public official.

### **What does a public official need to know about a “Legislative or Administrative Interest”?**

Beginning in 2010, the change to the definition of what a legislative or administrative interest is represents one of the most significant changes made in Oregon Government Ethics law during the 2009 session of the Oregon Legislative Assembly.

The change is significant because knowing if the source of a gift has a legislative or administrative interest will help determine whether the gift offered can be accepted without limits or with restrictions. Before this change, a public official only had to know if a gift was offered from a source with a legislative or administrative interest in official actions of the public official’s governmental agency. Now the focus is on the votes or decisions of each individual public official. The change places greater responsibility on the individual public official to decide if a gift can be accepted without limits or with restrictions imposed by ORS Chapter 244. Not every public official makes decisions or casts votes, as those actions are used in defining a legislative or administrative interest. This means that when gifts are offered to two or more public officials, in the same setting, one public official may be allowed to accept the offer without limits and another public official may be able to accept the offer, but it would be limited as to value or restricted by conditions that must be met when accepting.

The definition of a legislative or administrative interest as set forth in ORS 244.020(9) as follows:

“‘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.”

In the context of gifts accepted by a public official, the public official must determine if the source of the offered gift has a legislative or administrative interest in the decisions or votes of the public official. When analyzing a set of circumstances and applying “legislative or administrative interest”, there are several factors to consider:

Source: The Commission adopted a rule that identifies the source of a gift as the person or entity that makes the ultimate and final payment of the gift’s expense. OAR 199-005-0030 places two burdens on a public official who accepts gifts. The



public official must know the identity of the source and, if applicable, avoid exceeding the limit on the aggregate value of gifts accepted from that source. [OAR 199-005-0030(2)]

Distinct from that of the general public: With regard to gifts, this phrase refers to a distinct economic interest held by the source of a gift. That economic interest is in the financial gain or loss that could result from any votes cast or decisions made by a public official. If the source of a gift would realize a financial gain or detriment from a vote or decision of a public official, that source has an economic interest in that public official. That economic interest is “distinct from that of the general public”, if the potential financial gain or detriment is distinct from the financial impact that would be realized by members of the general public from the votes or decisions of that same public official.

There are decisions or votes that have an economic impact on single individuals or individuals from specific businesses or groups that are distinct from the economic impact on members of the general public. On the other hand, there are many votes or decisions made by public officials that have the same general economic impact on individuals, businesses, organizations and members of the general public. Some examples of decisions or votes that would have an economic impact on the general public would be those that change water usage rates, fees for licenses or permits or fines for parking violations.

To illustrate, private contractors have an economic interest in any public official who has the authority to decide or vote to award them contracts. The economic interest of these contractors is distinct from the economic interest held by members of the general public in those decisions or votes.

To further illustrate, real estate developers have an economic interest in any public official who has the authority to decide or vote to approve their land use applications or building permits. The economic interest of these developers is distinct from the economic interest held by members of the general public in those decisions or votes.

Vote: This has the common meaning of to vote as an elected member of a governing body of a public body or as an appointed member of a committee, commission or board appointed by a governing body, Oregon Legislative Assembly or the Office of the Governor.

Decision: The Commission adopted OAR 199-005-0003 and defines “decision” in OAR 199-005-0003(2). A public official makes a decision when the public official exercises the authority given to the public official to commit the public body to a particular course of action. Making a recommendation or giving advice in an advisory capacity does not constitute a decision.

The change to the definition of a legislative or administrative interest places the focus on

the decision or vote of each individual public official. That means that any decision to accept or reject the offer of a gift must be made individually by each public official. It also means that there will be some public officials who may accept unlimited gifts from a source and other public officials within the same public body that would have restrictions on gifts from that same source. This is because not all public officials in the same public body have the same authority, responsibilities or duties. Some may vote and make decisions, others may do one but not the other and many will not vote or make decisions, as “decision” is used in legislative or administrative interest.

There are public officials who, because they hold positions specified in ORS 244.050, must file the Annual Verified Statement of Economic Interest (SEI) form with the Commission on April 15 of each year. Some information listed in that form is required when certain financial interests, assets or liabilities, are related to a source with a legislative or administrative interest in the votes or decisions of the public official submitting the form. Refer to the table of contents to find the discussion of the SEI form in this guide.

Any discussion of gifts must begin with the reminder that if the source of the offer of a gift to a public official does not have a legislative or administrative interest in the decisions or votes of the public official, the public official can accept unlimited gifts from that source. [\[ORS 244.040\(2\)\(f\)\]](#)<sup>59</sup>

If the source of the offer of a gift to a public official has a legislative or administrative interest in the decisions or votes of the public official, the public official can only accept gifts from that source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year. [\[ORS 244.025\]](#)<sup>60</sup>

While gifts from a source with a legislative or administrative interest in the decisions or votes of a public official have a \$50 limit, there are some gifts that are excluded from the definition of a “gift.” If the offer of a gift is excluded from the definition of a “gift,” the offer may be accepted by a public official. The value of gifts that are allowed as exclusions does not have to be included when calculating the aggregate value of gifts received from that source in one calendar year. [\[ORS 244.020\(6\)\(b\)\]](#)<sup>61</sup>

Sources who offer gifts or other financial benefits to public officials must also be aware of the provisions in ORS Chapter 244. While the specific gift of paid expenses may be allowed by [ORS 244.020\(6\)\(b\)\(F\)](#)<sup>62</sup>, [ORS 244.100\(1\)](#)<sup>63</sup> requires the source of this gift, if over \$50, to notify the public official in writing of the aggregate value of the paid expenses. There is also a notice requirement in [ORS 244.100\(2\)](#)<sup>64</sup> for the source of an honorarium when the value exceeds \$15. Lobbyists, clients or employers of lobbyist and others who provide gifts or financial benefits to public officials should also familiarize themselves with the provisions in ORS 171.725 through ORS 171.992 and Divisions 5 and 10 of Chapter 199 in the Oregon Administrative Rules. The Commission has published a “Guide to Lobbying in Oregon” that provides a summary of these regulations and rules.

As previously mentioned, there are gifts that are allowed because they are excluded from the definition of a “gift” when offered under specific conditions or when prerequisites are

met. Although some gifts are allowed, it should be remembered that a source may have a notice requirement or there may be reporting requirements for the public official or the source. If you are a public official accepting gifts or a source offering gifts, it is important you become familiar with the requirements that may apply to you.

ORS 244.020(6)(b) provides a description of the **GIFTS THAT ARE ALLOWED** as exclusions to the definition of a “gift”:

**[NOTE:** Not all of these exclusions apply to gifts offered to candidates.]

- Campaign contributions as defined in ORS 260.005. *[ORS 244.020(6)(b)(A)]*
- Contributions to a legal expense trust fund established under [ORS 244.209](#)<sup>65</sup>. *[ORS 244.020(6)(b)(G)]*
- Gifts from relatives or members of the household of public officials or candidates. *[ORS 244.020(6)(b)(B)]*
- Anything of economic value received by a public official or candidate, their relatives or members of their household when; [\[ORS 244.020\(6\)\(b\)\(O\)\]](#)<sup>66</sup>

The receiving is part of the usual and customary practice of the person’s business, employment, or volunteer position with any legal non-profit or for-profit entity. [\[ORS 244.020\(6\)\(b\)\(O\)\(i\)\]](#)<sup>67</sup>

The receiving bears no relationship to the person’s holding the official position or public office. [\[ORS 244.020\(6\)\(b\)\(O\)\(ii\)\]](#)<sup>68</sup>

- Unsolicited gifts with a resale value of less than \$25 and in the form of items similar to a token, plaque, trophy and desk or wall mementos. [\[ORS 244.020\(6\)\(b\)\(C\)\]](#)<sup>69</sup> *and see resale value discussed in OAR199-005-0010]*
- Publications, subscriptions or other informational material related to the public official’s duties. [\[ORS 244.020\(6\)\(b\)\(D\)\]](#)<sup>70</sup>
- Waivers or discounts for registration fees or materials related to continuing education or to satisfy a professional licensing requirement for a public official or candidate. [\[ORS 244.020\(6\)\(b\)\(J\)\]](#)<sup>71</sup>
- Entertainment for a public official or candidate and their relatives or members of their households when the entertainment is incidental to the main purpose of the event. [\[ORS 244.020\(6\)\(b\)\(M\)\]](#)<sup>72</sup> *and see OAR 199-005-0001(3) and OAR 199-005-0025(1) for meaning of “incidental”]*
- Entertainment for a public official, a relative of the public official or a member of the public official’s household when the public official is acting in an official capacity and

representing a governing agency for a ceremonial purpose.

[\[ORS 244.020\(6\)\(b\)\(N\)\]<sup>73</sup>](#) and see “ceremonial” defined in OAR 199-005-0025(2)]

- Cost of admission or food and beverage consumed by the public official, a member of the public official’s household or staff when they are accompanying the public official, who is representing government, state, local or special district, at a reception, meal or meeting held by an organization. [\[ORS 244.020\(6\)\(b\)\(E\)\]<sup>74</sup>](#) and see *this exception discussed in OAR 199-005-0015]*
- Food or beverage consumed by a public official or candidate at a reception where the food and beverage is an incidental part of the reception and there was no admission charged. [\[ORS 244.020\(6\)\(b\)\(L\)\]<sup>75</sup>](#) and OAR 199-005-0025(1) also see OAR 199-005-0001(3) and (8)]
- When public officials travel together inside the state to an event bearing a relationship to the office held and the public official appears in an official capacity, a public official may accept the travel related expenses paid by the accompanying public official. [\[ORS 244.020\(6\)\(b\)\(K\)\]<sup>76</sup>](#)
- Payment of reasonable expenses if a public official is scheduled to speak, make a presentation, participate on a panel or represent a government agency at a convention, conference, fact-finding trip or other meeting. The paid expenses for this exception can only be accepted from another government agency, Native American Tribe, an organization to which a public body pays membership dues or not-for-profit organizations that are tax exempt under 501(c)(3). [\[ORS 244.020\(6\)\(b\)\(F\)\]<sup>77</sup>](#) and see *definition of terms for this exception in OAR 199-005-0020]*
- Payment of reasonable food, lodging or travel expenses for a public official, a relative of the public official or a member of the public official’s household or staff may be accepted when the public official is representing the government agency or special district at one of the following: [\[ORS 244.020\(6\)\(b\)\(H\)\]<sup>78</sup>](#) and see *definition of terms for this exception in OAR 199-005-0020]*
  - Officially sanctioned trade promotion or fact-finding mission; [\[ORS 244.020\(6\)\(b\)\(H\)\(i\)\]<sup>79</sup>](#)
  - Officially designated negotiation or economic development activity when receipt has been approved in advance. [\[ORS 244.020\(6\)\(b\)\(H\)\(ii\)\]<sup>80</sup>](#)

**[NOTE:** How and who may officially sanction and officially designate these events is addressed in OAR 199-005-0020(2)(b).]

- Payment of reasonable expenses paid to a public school employee for accompanying students on an educational trip. [\[ORS 244.020\(6\)\(b\)\(P\)\]<sup>81</sup>](#)

- Food and beverage when acting in an official capacity in the following circumstances: [\[ORS 244.020\(6\)\(b\)\(I\)\]](#)<sup>82</sup>
  - In association with a financial transaction or business agreement between a government agency and another public body or a private entity, including such actions as a review, approval or execution of documents or closing a borrowing or investment transaction; [\[ORS 244.020\(6\)\(b\)\(I\)\(i\)\]](#)<sup>83</sup>
  - When the office of the Treasurer is engaged in business related to proposed investment or borrowing; [\[ORS 244.020\(6\)\(b\)\(I\)\(ii\)\]](#)<sup>84</sup>
  - When the office of the Treasurer is meeting with a governance, advisory or policy making body of an entity in which the Treasurer's office has invested money. [\[ORS 244.020\(6\)\(b\)\(I\)\(iii\)\]](#)<sup>85</sup>

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## GIFTS AS AN EXCEPTION TO THE USE OF OFFICE PROHIBITION IN ORS 244.040

Since ORS 244.040 was amended in 2007, the acceptance of gifts that comply with [ORS 244.020\(6\)](#)<sup>86</sup> and [ORS 244.025](#)<sup>87</sup> is excluded from the prohibition on public officials' use or attempted use of an official position to gain financial benefits. If a public official or relative accepts a lawful gift, or a lawful financial benefit that qualifies as an exception to the definition of a gift, [ORS 244.040\(1\)](#)<sup>88</sup> does **not** prohibit the acceptance.

The discussion below is intended to assist public officials in understanding this distinction. There are more focused discussions of gifts starting on page 26 and the use of position or office starting on page 9. It should be understood this section may paraphrase information discussed more comprehensively in those areas of this guide. Also, the application of the gift provisions to candidates is not part of this discussion because, unless the candidate also qualifies as a public official on another basis, candidates are not public officials; therefore, the use of an official position prohibited by ORS 244.040(1) would not apply to a candidate who is not also a public official.

Oregon Government Ethics law does not prohibit public officials from accepting gifts [[ORS 244.040\(2\)\(e\), \(f\) and \(g\)](#)]<sup>89</sup> but it does place on each individual public official the direct and personal responsibility to understand there are circumstances when the aggregate value of gifts may be restricted. Public officials are also prohibited from using or attempting to use a position held by the public official to obtain a prohibited financial benefit. These provisions of Oregon Government Ethics law often converge and require public officials to analyze and determine whether the opportunity to obtain financial benefits represents the use of an official position prohibited by ORS 244.040(1) or a gift addressed with other provisions in ORS Chapter 244 [[ORS 244.020\(6\)](#), [ORS 244.025](#) or [ORS 244.040\(2\)\(e\), \(f\) and \(g\)](#)].

### Is it a gift?

Public officials must understand the operative definition of a “gift” when deciding whether a gift may be accepted by a public official or candidate. The following is a paraphrase of the definition taken from [ORS 244.020\(6\)\(a\)](#).<sup>90</sup>

**Gift: “Something of economic value” given** to a public official, a relative of the public official or a member of the public official’s household for which the recipient either makes no payment or makes payment at a discounted price. The opportunity for the gift is one that is **not available to members of the general public**, who are not public officials, **under the same terms and conditions as** those that apply to the gift offered to **the public official**, the relative or a member of the household.

**If something of economic value is received by a public official from the government agency employer or the public body represented by the public official, that financial benefit is not considered a gift**, it is a financial benefit addressed by [ORS 244.040](#)<sup>91</sup> and it is either allowed or prohibited.

Sources of gifts are private individuals, businesses, organizations or government agencies, but **not the agency represented by or employing the public official**. Sources may also be co-workers or representatives of the same public body who have purchased a gift with their **personal** resources.

Gifts may be accepted by a public official, if the source does not have a legislative or administrative interest in the votes or decisions of the public official. Specific gifts may be accepted, if the conditions of the offer exclude the gift from being defined as a gift [\[ORS 244.020\(6\)\(b\)\(A\) through \(P\)\]](#)<sup>92</sup> Gifts that are not excluded from the definition may be accepted from a source as long as the aggregate value of gifts from that source does not exceed \$50 in a calendar year. For additional assistance, see the discussion beginning on page 37 titled, “What if I am offered a gift?”

### **Is it a prohibited use of position?**

Unlike gifts, which come from outside sources, [ORS 244.040\(1\)](#)<sup>93</sup> focuses on the public official’s own actions. ORS 244.040(1) prohibits the **use or attempted use of the position** held by the public official to obtain benefits which are only available because of that position.

The prohibited financial benefits might take several forms. A public employee might have access to job related resources, business opportunities, or information, and might want to take financial advantage of this access. The financial benefit might be the avoidance of a personal expense, acquiring something of economic value, gaining extra income from private employment, or creating a new employment opportunity.

Although this “use of position” applies to situations where something of value is obtained, or there is an attempt to obtain something of value, **the Commission applies Oregon Government Ethics law to “something of economic value” offered to a public official that meets the definition of “gift,” it will be addressed as a gift in the analysis and application of the law.** The following are some examples to illustrate the Commission’s approach:

### **NOTE THAT IN THE FOLLOWING EXAMPLES, THE SOURCES OF THE FINANCIAL BENEFITS HAVE A LEGISLATIVE OR ADMINISTRATIVE INTEREST IN THE DECISIONS OR VOTES OF THE PUBLIC OFFICIALS.**

That is important to remember because if there were no legislative or administrative interest the public officials may be allowed to accept the offers without restrictions. [\[ORS 244.040\(2\)\(f\)\]](#)<sup>94</sup>

- A salesperson from a software company offers to take the county’s information technology manager out to lunch. Because the manager has purchasing authority, the salesperson has an administrative interest in the manager. The meal would be a gift and, if accepted, the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. [\[ORS 244.025\(1\)\]](#)<sup>95</sup> If the meal cost less than \$50, the manager may accept it, but should

keep a record of the gift and should be careful in future situations not to accept additional gifts from this source if the value would exceed \$50 total for the year. Of course, if the lunch costs more than \$50, the manager may not accept it in any case.

- A city manager attends a work-related conference paid for by the city. When the city manager checks out of the hotel, she is offered a coupon for two nights of free lodging at any hotel in the nationwide chain. Because the city manager is in charge of her own travel arrangements, the hotel has an administrative interest in her future hotel-booking decisions. If accepted and used for personal lodging, it would be a gift and the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. *[ORS 244.025(1)]* Note that if the city had adopted an official compensation package (as defined in OAR 199-005-0035) that included a provision allowing the city manager to use “loyalty program” benefits for personal use, the coupon could have been accepted.
- A county finance officer attends a work-related conference paid for by the county. When arriving at the conference the finance officer, as with others in attendance, is offered a gift basket containing assorted goods from the organization hosting the conference. Because the organization sells goods or services the finance officer has the authority to purchase, the source of the gift has an administrative interest in the finance officer. Typically, such a gift basket would be a “gift” and, if accepted, the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. *[ORS 244.025(1)]* However, the law does not prohibit accepting things that are made available to a significant portion of the general public under the same terms and conditions. If the conference was open to members of the general public, and the attendees included a wide range of public and private participants, the baskets would not be considered gifts.
- A state employee is sent by his agency to attend a two-day training conference. A salesperson is near the conference registration table and offers a collection of gifts valued at over \$100 to all registrants. As in the last example, because the employee has the authority to purchase goods or services sold by the salesperson, the source of the gifts has an administrative interest in the state employee. Let’s also assume that the conference is only open to government employees. Under these circumstances the offered items would be gifts and any accepted could not exceed the \$50 limit on aggregate value from a single source in one calendar year. *[ORS 244.025(1)]*
- During the same conference, the state employee is going out to dinner after the conference adjourns for the day. While passing through the hotel lobby, he stops to speak with the salesperson who offered the gifts during the conference registration. The salesperson asks to join the state employee for dinner and offers to pay for the meal. The value of the meal would be included with the value of any gifts accepted earlier in the aggregate value of gifts, which cannot exceed \$50 in one calendar year. *[ORS 244.025(1)]*



- A city mayor goes out to lunch in a local city restaurant. During lunch a well known developer approaches the mayor and offers to pay for the mayor's meal. The developer has a legislative or administrative interest in decisions the mayor could make on his construction projects. The value of the meal, if accepted, would be included in the aggregate value of gifts from a source, which cannot exceed \$50 from a single source in one calendar year. [ORS 244.025(1)]
- A chief deputy who manages procurement for a county sheriff's office attends a conference on newly developed equipment for law enforcement agencies. Upon arrival, the deputy purchases with personal funds several "raffle tickets" each representing a chance to win a shotgun from the manufacturer valued at \$500. The opportunity to buy the tickets is only available to those attending the conference. During the final session of the conference the "raffle" ticket drawing is held and the chief deputy wins the shotgun. As explained above, if the conference was only open to public officials, or if few non-public employees were in attendance, the shotgun would be a gift and, if accepted, the value would be included in the aggregate value of gifts, which cannot exceed \$50 from a single source in one calendar year. [ORS 244.025(1)]

**When the Commission applies Oregon Government Ethics law to a financial benefit obtained by a public official by using or attempting to use an opportunity that would not otherwise be available but for the position or office held, [ORS 244.040\(1\)](#)<sup>96</sup> will be used in the analysis and application of the law.** The following are some examples to illustrate the Commission's approach:

- A city recorder has overseen the installation and implementation of a new software program to manage the city's financial records. The distributor of this software has a training event scheduled for employees who work for other cities' governments. The city recorder has been asked to participate as a trainer at the events and the distributor has offered to provide compensation and pay any expenses for food, lodging and travel. If the city recorder accepted this offer, it could constitute the use of the official position to gain a financial benefit because the opportunity for the compensation and paid expenses would not be available but for holding the position and performing the duties as the city recorder. [ORS 244.040(1)]
- A deputy fire chief, who is in charge of procuring equipment for fire stations in the district, locates a vendor that offers the make and model of an extension ladder to replace obsolete ladders in the district's stations. To increase the fire district's discount on each ladder, the deputy fire chief adds several extra ladders to the order. The deputy fire chief and two relatives take personal possession of the extra ladders and pay the fire district the amount the district paid for the ladders. The deputy fire chief would violate ORS 244.040(1) because the discounted price to the deputy fire chief and the relatives represents the use of position to avoid a financial detriment (discount) that is prohibited.

- A city council has scheduled a public council meeting in a room at a local restaurant. Before the scheduled meeting the councilors plan to use city funds to purchase dinner for councilors, the councilor’s spouses and members of the city’s staff attending the scheduled meeting. The councilors, who are accompanied by a spouse, would violate ORS 244.040(1) because the cost of the meal for the spouse would represent the use of position to avoid a financial detriment that is prohibited.

The responsibility for judgments and decisions made in order to comply with the various provisions in Oregon Government Ethics law rests with the individual public official who faces the circumstances that require a judgment or decision. That is true of questions regarding gifts, use of an official position, announcing the nature of conflicts of interest and the many situations addressed in ORS Chapter 244.

### **What if I am offered a gift?**

First, insure you know the identity of the source of the gift. Remember, the source of a gift is the person or entity that made the ultimate payment for the gift’s expense [[See page 27](#)].

Second, determine if the source of the gift has an economic interest in decisions or votes you make in your official capacity as a public official. If that economic interest is distinct from the interest held by members of the general public it is a legislative or administrative interest [[See page 27](#)].

- If the source does not have a legislative or administrative interest, gifts from that source are not prohibited or limited as to value or quantity.
- If the source has a legislative or administrative interest, you must answer the following questions:
  1. Is the gift offered under the conditions that would allow you to accept the gift because it is excluded from what is defined as a “gift”? These exclusions are found in [ORS 244.020\(6\)\(b\)](#)<sup>97</sup> and described on pages 30 - 32 of this guide.
  2. What is the value of the gift? Remember, you can accept gifts [not excluded from the definition of “gift”.] from a single source when the aggregate value of gifts from that source does not exceed \$50 in a calendar year. [[ORS 244.025](#)]<sup>98</sup>

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## ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST

There are approximately 5,500 Oregon public officials who must file an **Annual Verified Statement of Economic Interest (SEI)** form with the Oregon Government Ethics Commission by **April 15 of each calendar year**.

The **public officials who are required to file reports are specified in ORS [244.050](#)**.<sup>99</sup> Please refer to that section of the law to see if your specific position requires you to file these forms. In general, public officials who hold the following positions are required to file:

- State public officials who hold elected or appointed executive, legislative or judicial positions. This includes those who have been appointed to positions on certain boards or commissions.
- In counties, elected officials, such as commissioners, assessors, surveyors, treasurers and sheriffs must file, as do planning commission members and the county's principal administrator.
- In cities, all elected officials, the city manager or principal administrator, municipal judges and planning commission members must file.
- Administrative and financial officers in school districts, education service districts and community college districts must file.
- Some members of the board of directors for certain special districts must file.
- Candidates for some elected public offices are also required to file.

The Commission staff has identified the positions held by public officials who must file the SEI form and has them listed by jurisdiction. Each jurisdiction [city, county, executive department, board or commission, etc.] has a person who acts as the Commission's point of contact for that jurisdiction [OAR 199-020-0005(1)].

The **contact person** for each jurisdiction has an important role in the annual filing of the SEI forms. It is through the contact person that the Commission obtains the current name and address of each public official who is required to file. When there is a change, through resignation, appointment or election, in who holds a position, the contact person notifies the Commission. If there is a change in the filer's mailing address, it is the contact person who notifies the Commission.

As with other provisions in Oregon Government Ethics law, it is each public official's personal responsibility to ensure they comply with the requirement to complete and submit the SEI form by April 15. Those public officials who must file a SEI form are well served if the contact person ensures that the Commission has the correct name and address of the public official.

Beginning in January of each year the Commission prepares a list by jurisdiction of each public official required to file the SEI form. A list for each jurisdiction is sent to the contact person. The contact person is required to review the list for accuracy. After entering the necessary changes, the contact person must return the list that has been reviewed and corrected to the Commission by February 15. [OAR 199-020-0005(2)]

The contact person from each jurisdiction should ensure that each filer has been advised of the reporting requirements. Each filer should also receive information as to the procedures the jurisdiction follows to assist the filer in meeting the SEI filing requirement.

Based on the information provided by each of the jurisdictions' contacts, the Commission sends an annual SEI form directly to each individual public official required to file the form.

Again, the requirement to file the SEI is the personal responsibility of each public official. Each public official should comply and file timely, as the civil penalties for late filing are \$10 for each of the first 14 days after the filing deadline and \$50 for each day thereafter until the aggregate penalty reaches the maximum of \$5,000. [[ORS 244.350\(4\)\(c\)](#)]<sup>100</sup>

### SEI Form

When the forms are distributed in March of each year, the instructions and definitions are also included to assist the filer in completing the forms. The information needed to complete the form pertains to the previous calendar year.

NOTE: Only public officials who hold a position that is required to file, and who holds the position on April 15 of the year the SEI is due, must complete the form.

The following is a brief description of the information requested in the SEI form:

- Name and address of each business in which a position as officer or director was held by the filer or member of the household. [[ORS 244.060\(1\)](#)]<sup>101</sup>
- Name and address of each business through which the filer or member of the household did business. [[ORS 244.060\(2\)](#)]<sup>102</sup>
- Name and address and brief description of the sources of income for the filer and members of the household that represent 10 percent or more of the annual household income. [[ORS 244.060\(3\)](#)]<sup>103</sup>
- Ownership interests held by the filer or members of the household in real property, except for the principal residence, located within the geographic boundaries of the governmental agency in which the filer holds the position or seeks to hold. [[ORS 244.060\(4\)\(a\) and \(b\)](#)]<sup>104</sup>
- Honoraria or other items allowed by [ORS 244.042](#)<sup>105</sup> that exceed \$15 in value given to the filer or members of the filer's household. Include a description of the honoraria or

item and the date and time of the event when the item was received [[ORS 244.060\(7\)](#)]<sup>106</sup>. Remember that honorarium cannot exceed \$50. [[ORS 244.042\(3\)\(a\)](#)]<sup>107</sup>

- Name of each lobbyist associated with any business the filer or a member of the household is associated, unless the association is through stock held in publicly traded corporations. [[ORS 244.090](#)]<sup>108</sup>
- If the public official received over \$50 from an entity to participate in a convention, fact-finding mission, trip, or other meeting as allowed by [ORS 244.020\(6\)\(b\)\(F\)](#)<sup>109</sup>, list the name and address of the entity that paid the expenses. Include the event date, aggregate expenses paid, purpose for participation a copy of the notice of aggregate value paid. [[ORS 244.060\(5\)](#)]<sup>110</sup> and [ORS 244.100\(1\)](#)<sup>111</sup> [Not required for candidates]
- If the public official received over \$50 from an entity to participate in a trade promotion, fact-finding mission, negotiations or economic development activities as allowed by [ORS 244.020\(6\)\(b\)\(H\)](#)<sup>112</sup>, list the name and address of the person that paid the expenses. Include the event date, aggregate expenses paid and nature of the event. [[ORS 244.060\(6\)](#)]<sup>113</sup> [Not required for candidates]

The following is required if the information requested relates to an individual or business that has been or could reasonably be expected to do business with the filer's governmental agency or has a legislative or administrative interest in the filer's governmental agency:

- Name, address and description of each source of income (taxable or not) that exceeds \$1,000 for the filer or a member of the filer's household. [[ORS 244.060\(8\)](#)]<sup>114</sup>
- Name of each person the filer or member of the filer's household has owed \$1,000 or more. Include the date of the loan and the interest rate. Debts on retail contracts or with regulated financial institutions are excluded. [[ORS 244.070\(1\)](#)]<sup>115</sup>
- Business name, address and nature of beneficial interest over \$1,000, or investment held by the filer or a member of the household in stocks or securities over \$1,000. Exemptions include mutual funds, blind trusts, deposits in financial institutions, credit union shares and the cash value of life insurance policies. [[ORS 244.070\(2\)](#)]<sup>116</sup>
- Name of each person from whom the filer received a fee of over \$1,000 for services, unless disclosure is prohibited by a professional code of ethics. [[ORS 244.070\(3\)](#)]<sup>117</sup>

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## OREGON GOVERNMENT ETHICS COMMISSION

The Governor appoints all seven members of the Commission and each appointee is confirmed by the Senate. The commissioners are recommended as follows [[ORS 244.250](#)<sup>118</sup>]:

- 1 Recommended by the Senate Democratic leadership
- 1 Recommended by the Senate Republican leadership
- 1 Recommended by the House Democratic leadership
- 1 Recommended by the House Republican leadership
- 3 Recommended by the Governor

No more than four commissioners with the same political party affiliation may be appointed to the Commission to serve at the same time. The commissioners are limited to one four year term, but if an appointee fills an unfinished term they can be reappointed to a subsequent four year term.

The Commission members select a chairperson and vice chairperson annually. The Commission is administered by an executive director, who is selected by the Commission. Legal counsel is provided by the Oregon Department of Justice.

The Commission staff provides administration, training, guidance, issues written opinions, and conducts investigations when complaints are filed with the Commission.

### Training:

The Commission has designated training as one of its highest priorities. It has two staff positions to provide training to public officials and lobbyists on the laws and regulations under its jurisdiction. Training is provided through presentations at training events, iLearnOregon, informational links on the website, topical handouts and guidance offered when inquiries are received.

### Advice:

All members of the Commission staff are cross-trained in the laws and regulations under the Commission's jurisdictions. Questions regarding the Commission's laws, regulations and procedures are a welcome daily occurrence. Timely and accurate answers are a primary objective of the staff. Guidance and information is provided either informally or in written formal opinions. The following are available:

- Telephone inquiries are answered during the call or as soon as possible.
- E-mail inquiries are answered with return e-mail or telephone call as soon as possible.
- Letter inquiries are answered by letter as soon as possible.

- Written opinions on specific circumstances can also be requested.

Requests for written opinions must describe the specific facts and circumstances that provide the basis for questions about how the Oregon Government Ethics law may apply. The facts and circumstances may define a proposed transaction and may be hypothetical or actual. If the circumstances indicate that a violation may have occurred, the staff cannot provide an opinion because to do so could compromise the Commission's objectivity if a complaint were to be filed. The written opinions will be in one of the following formats, as requested:

### **Staff Advice**

[ORS 244.284](#)<sup>119</sup> provides for informal staff advice, which may be offered in several forms, such as in person, by telephone, e-mail or letter. In a letter of advice, the proposed, hypothetical or actual facts are restated as presented in the request and the relevant laws or regulations are applied. The answer will conclude whether a particular action by a public official comports with the law.

If the Commission determines that a respondent violated provisions of law within its jurisdictions and the respondent received staff advice offered under the authority of ORS 244.284, in sanctioning the violation, the Commission may consider whether the public official committed the violation when relying on the staff advice [[ORS 244.284\(2\)](#)].<sup>120</sup>

For staff advice to be a factor in the sanction phase, it is important to understand that the circumstances the respondent described in the request must have been an accurate description of what occurred when the respondent committed the violation. The actions of the respondent must have been those recommended or described in the staff advice. The Commission is not prevented from finding a violation in these circumstances, but the sanction imposed could be affected.

### **Staff Advisory Opinion**

ORS 244.282 authorizes the executive director to issue a staff advisory opinion upon receipt of a written request. The opinion is issued in a letter that restates the proposed, hypothetical or actual facts presented in the written request and identifies the relevant statutes. The letter will discuss how the law applies to the questions asked or raised by the fact circumstances presented in the request. The Commission must respond to any request for a staff advisory opinion within 30 days, unless the executive director extends the deadline by an additional 30 days.

If the Commission determines that a respondent violated provisions of law within its jurisdictions and the respondent received a staff advisory opinion under the authority of ORS 244.282, in sanctioning the violation, the Commission may consider whether the public official committed the violation when relying on the staff advisory opinion [[ORS 244.282\(3\)](#)].<sup>121</sup>

For the staff advisory opinion to be a factor in the sanction phase, it is important to understand that the circumstances the respondent described in the request must have been an accurate description of what occurred when the respondent committed the violation. The actions of the respondent must have been those recommended or described in the staff advisory opinion. The Commission is not prevented from finding a violation in these circumstances, but whether the sanction is imposed or its severity could be affected.

### **Commission Advisory Opinion**

[ORS 244.280](#)<sup>122</sup> authorizes the Commission to prepare and adopt by vote a Commission Advisory Opinion. This formal written opinion also restates the proposed, hypothetical or actual facts presented in a written request for a formal opinion by the Commission. The opinion will identify the relevant statutes and discuss how the law applies to the questions asked or raised by the fact circumstances provided in the request. These formal advisory opinions are reviewed by legal counsel before the Commission adopts them. The Commission must respond to any request for a Commission Advisory Opinion within 60 days, unless the Commission extends the deadline by an additional 60 days [[ORS 244.280\(1\) and \(2\)](#)].<sup>123</sup>

The Commission may not impose a penalty on a person for any good faith action taken by the person while relying on a Commission Advisory Opinion, unless it is determined that the person who requested the opinion omitted or misstated material facts in the opinion request [[ORS 244.280\(3\)](#)].<sup>124</sup>

For the Commission Advisory Opinion to be a factor in preventing the imposition of a penalty, it is important to understand that the circumstances described in the request must have been an accurate description of what occurred when the respondent committed the violation. The actions of the respondent must have been those recommended or described in the Commission Advisory Opinion. The Commission is not prevented from finding a violation in these circumstances, but could be prevented from imposing a sanction.

**If a person requests, receives or relies on any of the advice or opinions authorized by [ORS 244.280 through ORS 244.284](#)<sup>125</sup>, does that person have what is referred to as “safe harbor” protection from becoming a respondent to a complaint filed with or initiated by the Commission?**

There is no “safe harbor,” if the term is understood to mean that any person who relies on any advice or opinions offered by the Commission or the staff is protected from being a respondent to a complaint, from being found in violation of laws within the jurisdiction of the Commission, or from receiving a penalty for a violation.

There is, however, specific and conditional protection for any person who has requested and relied upon advice or an opinion from the Commission or its staff. The conditions and protection is as follows:



- The fact circumstances described in the request must not misrepresent, misstate or omit material facts.
- Reliance on the advice or opinion means that the action or transactions of the person were those described or suggested in the advice or opinion.
- The protection applies only during the penalty phase, after the Commission has determined that a violation has occurred. If there was reliance on staff advice or a Staff Advisory Opinion, the Commission may consider the reliance during the penalty phase. If reliance was on a Commission Advisory Opinion, the Commission may not impose a penalty.

Any person who has not requested advice or an opinion must be cautious when trying to apply advice or opinions offered to others. The advice and opinions given are based on and tailored to the specific fact circumstances presented in a request. Fact circumstances vary from one situation to another and they vary from one public official to another. If a person reviews an opinion or advice issued to another for circumstances the person believes similar to those now met and relies on that advice, the person must ensure the similarity is sufficient for the application of law to be the same.

It is important to remember that the provisions of law apply to the individual actions of the person or public official. There are events or occasions when more than one public official may be present and participating in their official capacities. Depending on the circumstances and conditions for an event or transaction, the law may have a different application for one public official than for other public officials.

### Compliance:

The Commission has a program manager who oversees the management and administration of the various reports that are filed with the Commission. There are approximately 2,000 lobbyists and employers of lobbyists who file quarterly lobbying activity expense reports. Each of the nearly 1,000 lobbyists must file or renew their lobbying registrations every two years. There are approximately 5,500 public officials who must file the Annual Verified Statement of Economic Interest form each April 15.

### Complaint Review Procedures:

Investigations are initiated through a complaint procedure [[ORS 244.260](#)]<sup>126</sup> Any person may file a signed, written complaint alleging that there may have been a violation of Oregon Government Ethics law, Lobbying Regulation or the executive session provisions of Oregon Public Meetings law. The complaint must state the person's reason for believing that a violation may have occurred and must include any evidence that supports that belief. The executive director reviews the complaint and if additional information is needed, the complainant is asked to provide that information.

If there is reason to believe that there has been a violation of laws within the jurisdiction of

the Commission, an investigation will be initiated. The Commission may also initiate an investigation on its own complaint by motion and vote. Before approving such a motion, the public official against whom the action may be taken is notified and given an opportunity to appear before the Commission at the meeting when the matter is discussed or acted upon.

When a complaint is accepted, the public official against whom the allegations are made is referred to as the respondent. The respondent is notified of the complaint and provided with the information received in the complaint and the identity of the complainant. Whether based on a complaint or a motion by the Commission, the initial stage of the Commission procedure is called the Preliminary Review Phase. The time allowed for this phase is limited to 135 days and the Commission must act on the complaint within that period.

If there is a pending criminal matter related to the same circumstances or actions to be addressed in the Preliminary Review, the time period is suspended until the criminal matter is concluded.

There may be a variety of reasons for a respondent to ask for additional time before the Commission determines whether there is cause to investigate the issues raised in the complaint. With the consent of the Commission, a respondent may request a waiver of the 135 day time limit. If a complaint is made against a candidate within 61 days of an election, the candidate may request a delay.

During the Preliminary Review Phase, the Commissioners and staff can make no public comment on the matter other than acknowledge receipt of the complaint. It is maintained as a confidential matter until the Commission ends the Preliminary Review Phase. Under most circumstances, the Commission will end the Preliminary Review Phase by either dismissing the complaint or finding cause to conduct an investigation. The Commission meets in executive session to conduct deliberations and vote on the finding of cause or to dismiss. After the close of the Preliminary Review Phase, the case file is open to public inspection.

If the complaint is dismissed, the matter is concluded and both the respondent and complainant are notified. If cause is found to investigate, then an Investigatory Phase begins. The investigatory phase is limited to 180 days.

During each phase, information and documents are solicited from the complainant, respondent, and other witnesses and sources that are identified. Before the end of the 180 day investigatory period, the Commission will consider the results of the investigation. Normally, the Commission will either dismiss the complaint or make a preliminary finding that a violation of Oregon Government Ethics law was committed by the respondent. The preliminary finding of a violation is based on what the Commission considers to be a preponderance or sufficient evidence to support such a finding.

If a preliminary finding of violation is made, the respondent will be offered the opportunity to request a contested case hearing. At any time, the respondent is also encouraged to

negotiate a settlement with the executive director, who represents the Commission in such negotiations. Most cases before the Commission are resolved through a negotiated settlement, with the terms of the agreement described in a Stipulated Final Order.

The Commission has a variety of sanctions available after making a finding that a violation occurred. Sanctions range from letters of reprimand to civil penalties and forfeitures. The maximum civil penalty that can be imposed for each violation is \$5,000, except for violations of the executive session provisions in ORS 192.660 where the maximum is \$1,000. Any financial gain that a respondent realized from a violation is subject to a forfeiture of twice the gain. Any monetary sanctions imposed and paid are deposited into the State of Oregon General Fund.

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<sup>1</sup> ORS 244.020(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.

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<sup>2</sup> ORS 244.020(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.

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<sup>3</sup> ORS 244.020(2) “Business” means any corporation, partnership, proprietorship, firm, enterprise, franchise, 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 non-remunerative capacity.

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<sup>4</sup> ORS 244.020(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).

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<sup>5</sup> ORS 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.



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(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.

(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.

Public Official Guide Administrative officer and the financial officer of each common and union high school Page 53

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 Public Official Guide

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1977 c.588 §3; 1977 c.751 §16; 1979 c.374 §5; 1979 c.666 §6; 1979 c.697 §1; 1979 c.736 §1; 1979 c.829 §9b; 1987 c.373 §26; 1987 c.414 §148; 1987 c.566 §10; 1991 c.73 §2; 1991 c.160 §1; 1991 c.163 §1; 1991 c.470 §13; 1991 c.614 §2; 1993 c.500 §10; 1993 c.743 §11; 1995 c.79 §87; 1995 c.712 §94; 1997 c.652 §16; 1997 c.833 §22; 1999 c.59 §62; 1999 c.291 §28; 2001 c.104 §77; 2003 c.214 §1; 2003 c.784 §13; 2005 c.157 §6; 2005 c.217 §23; 2005 c.777 §14; 2007 c.813 §2; 2007 c.865 §17; 2007 c.877 §13; 2009 c.68 §5; 2009 c.595 §192; 2009 c.896 §10]

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<sup>6</sup> ORS 244.040(1) 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.

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<sup>7</sup> ORS 244.040(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.

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<sup>8</sup> ORS 244.040(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.

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<sup>9</sup> ORS 244.040(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.

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<sup>10</sup> ORS 244.020(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.

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<sup>11</sup> ORS 244.020 (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.

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<sup>12</sup> ORS 244.040(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.

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<sup>13</sup> ORS 244.020(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.

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<sup>14</sup> ORS 244.042(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

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<sup>15</sup> ORS 244.020(6)(b)(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

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<sup>16</sup> ORS 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.

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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. [2007 c.877 §31; 2009 c.505 §3]

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<sup>17</sup> ORS 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. [2007 c.865 §26b; 2009 c.689 §3]

**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 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. [2007 c.865 §26c]

**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) Is a public official in a position on the personal legislative staff of the member of the

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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. [2007 c.865 §26d]

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<sup>18</sup> ORS 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. [1974 c.72 §10; 1975 c.543 §7; 1987 c.566 §15; 1993 c.743 §15]

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<sup>19</sup> ORS 244.177(1)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 ministerial acts that are part of the normal job functions of the public official. Page 58

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<sup>20</sup> ORS 244.177(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.

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<sup>21</sup> ORS 244.177(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.

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<sup>22</sup> ORS 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. [2007 c.865 §26d]

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<sup>23</sup> ORS 244.040(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.

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<sup>24</sup> ORS 244.047(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.

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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.

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<sup>26</sup> ORS 244.045(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.

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<sup>27</sup> ORS 244.045(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.

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<sup>28</sup> 244.045(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.

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<sup>29</sup> ORS 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. [2007 c.877 §23a; 2009 c.689 §4a]



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<sup>30</sup> ORS 244.045(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.

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<sup>31</sup> ORS 244.045(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. [1987 c.360 §1; 1993 c.743 §10; 1995 c.79 §86; 1997 c.750 §1; 2007 c.877 §15]

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<sup>32</sup> ORS 244.020(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.

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<sup>33</sup> ORS 244.020(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.

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<sup>34</sup> ORS 244.120(1)(a) If the public official is a member of the Legislative Assembly, announce publicly, **Public Official's Office** house of which the public official is a member, the nature of the conflict before **Page 61**  
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taking any action thereon in the capacity of a public official.

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<sup>35</sup> ORS 244.120(1)(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.

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<sup>36</sup> ORS 244.120(1)(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.

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<sup>37</sup> ORS 244.120(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.

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<sup>38</sup> ORS 244.120(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.

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<sup>39</sup> ORS 244.120(2)(b)(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.

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<sup>40</sup> ORS 244.020(12)(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.

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<sup>41</sup> ORS 244.020(12)(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.

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classes that qualify under the class exception from the definition of “potential conflict of interest” under ORS 244.020;

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<sup>43</sup> ORS 244.020(12)(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.

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<sup>44</sup> ORS 244.130(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.

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<sup>45</sup> ORS 244.120(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.

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<sup>46</sup> ORS 244.130(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. [1974 c.72 §11; 1975 c.543 §8; 1993 c.743 §16; 2007 c.865 §9]

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<sup>47</sup> ORS 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. [2007 c.877 §29; 2009 c.505 §1]

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<sup>48</sup> ORS 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:

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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. [2007 c.877 §29; 2009 c.505 §1]

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. [2007 c.877 §30]

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. [2007 c.877 §31; 2009 c.505 §3]

244.210)]

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. [2007 c.877 §32; 2009 c.505 §2]

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. [2007 c.877 §33]

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 financial institution. [2007 c.877 §34]

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. [2007 c.877 §35]

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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. [Formerly 244.105]

Note: 244.218 was added to and made a part of ORS chapter 244 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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 expenses 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. [2007 c.877 §36]

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. [2007 c.877 §37]

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<sup>49</sup> ORS 244.205(4) A public official may not establish or maintain more than one legal expense trust fund at any one time.

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<sup>50</sup> ORS 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:

Public Official Guide the legal proceeding that requires establishment of the trust fund;

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(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. [2007 c.877 §31; 2009 c.505 §3]

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<sup>51</sup> ORS 244.211(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. [2007 c.877 §32; 2009 c.505 §2]

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<sup>52</sup> ORS 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. [2007 c.877 §33]

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<sup>53</sup> ORS 244.213(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. [2007 c.877 §33]

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<sup>54</sup> ORS 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,

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(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 financial institution. [2007 c.877 §34]

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<sup>55</sup> ORS 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. [2007 c.877 §35]

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<sup>56</sup> ORS 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 expenses 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. [2007 c.877 §36]

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<sup>57</sup> ORS 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

Public Official Code of the Internal Revenue Code. [2007 c.877 §37]

Adopted October 2010

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<sup>58</sup> ORS 244.020(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.

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<sup>59</sup> ORS 244.040(2)(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.

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<sup>60</sup> ORS 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. [2007 c.877 §18; 2009 c.68 §3]

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<sup>61</sup> ORS 244.020(6)(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.

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<sup>62</sup> ORS 244.020 (6)(b)(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.

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<sup>63</sup> ORS 244.100(1) 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.

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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. [1975 c.543 §11; 1991 c.677 §1; 2007 c.865 §6; 2007 c.877 §21a; 2009 c.68 §8]

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<sup>65</sup> ORS 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. [2007 c.877 §31; 2009 c.505 §3]

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<sup>66</sup> ORS 244.020(6)(b)(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:

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<sup>67</sup> ORS 244.020(6)(b)(O)(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

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<sup>68</sup> ORS 244.020(6)(b)(O)(ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for, the official position or public office.

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<sup>69</sup> ORS 244.020(6)(b)(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.

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<sup>70</sup> ORS 244.020(6)(b)(D) Informational or program material, publications or subscriptions related to the recipient's performance of official duties.

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<sup>71</sup> ORS 244.020(6)(b)(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.

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<sup>72</sup> *ORS 244.020(6)(b)(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.*

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<sup>73</sup> *ORS 244.020(6)(b)(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 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 for a ceremonial purpose.*

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<sup>74</sup> *ORS 244.020(6)(b)(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.*

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<sup>75</sup> *ORS 244.020(6)(b)(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.*

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<sup>76</sup> *ORS 244.020(6)(b)(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.*

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<sup>77</sup> *ORS 244.020(6)(b)(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.*

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<sup>78</sup> ORS 244.020(6)(b)(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:

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<sup>79</sup> ORS 244.020(6)(b)(H)(i) On an officially sanctioned trade-promotion or fact-finding mission; or

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<sup>80</sup> ORS 244.020(6)(b)(H)(ii) In officially designated negotiations, or economic development activities, where receipt of the expenses is approved in advance.

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<sup>81</sup> ORS 244.020(6)(b)(P) Reasonable expenses paid to a public school employee for accompanying students on an educational trip.

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<sup>82</sup> ORS 244.020(6)(b)(I) Food or beverage consumed by a public official acting in an official capacity:

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<sup>83</sup> ORS 244.020(6)(b)(I)(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;

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<sup>84</sup> ORS 244.020(6)(b)(I)(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

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<sup>85</sup> ORS 244.020(6)(b)(I)(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.

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<sup>86</sup> ORS 244.020(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 certificate or other 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 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 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.

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<sup>87</sup> ORS 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. [2007 c.877 §18; 2009 c.68 §3]

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<sup>88</sup> ORS 244.040(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.

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<sup>89</sup> ORS 244.040(2)(e), (f) and (g) 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.

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<sup>90</sup> ORS 244.020(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:

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<sup>91</sup> ORS 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.

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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. [1974 c.72 §3; 1975 c.543 §2; 1987 c.566 §9; 1989 c.340 §3; 1991 c.146 §1; 1991 c.770 §6; 1991 c.911 §4; 1993 c.743 §9; 2007 c.877 §17; 2009 c.68 §4]

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<sup>92</sup> ORS 244.020(6)(b)(A) through (P) (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) In connection with due diligence research or presentations by the office of the State Treasurer.

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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 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 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.

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<sup>93</sup> ORS 244.040(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.

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<sup>94</sup> ORS 244.040(2)(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.

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<sup>95</sup> ORS 244.025(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.

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<sup>96</sup> ORS 244.040(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.



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<sup>97</sup> ORS 244.020(6)(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 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 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:

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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.

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<sup>98</sup> ORS 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. [2007 c.877 §18; 2009 c.68 §3]

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<sup>99</sup> ORS 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 Department of Transportation.

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- (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.
  - (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.
  - (S) Public Employees Retirement 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. [1974 c.72 §§4,4a; 1975 c.543 §3; 1977 c.588 §3; 1977 c.751 §16; 1979 c.374 §5; 1979 c.666 §6; 1979 c.697 §1; 1979 c.736 §1; 1979 c.829 §9b; 1987 c.373 §26; 1987 c.414 §148; 1987 c.566 §10; 1991 c.73 §2; 1991 c.160 §1; 1991 c.163 §1; 1991 c.470 §13; 1991 c.614 §2; 1993 c.500 §10; 1993 c.743 §11; 1995 c.79 §87; 1995 c.712 §94; 1997 c.652 §16; 1997 c.833 §22; 1999 c.59 §62; 1999 c.291 §28; 2001 c.104 §77; 2003 c.214 §1; 2003 c.784 §13; 2005 c.157 §6; 2005 c.217 §23; 2005 c.777 §14; 2007 c.813 §2; 2007 c.865 §17; 2007 c.877 §13; 2009 c.68 §5; 2009 c.595 §192; 2009 c.896 §10]

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<sup>100</sup> ORS 244.350(4)(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.

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<sup>101</sup> ORS 244.060(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.

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of the public official or candidate do business and the principal address and a brief description of each business.

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<sup>103</sup> ORS 244.060(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.

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<sup>104</sup> ORS 244.060(4)(a) and (b) (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.

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<sup>105</sup> ORS 244.042 (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. [2007 c.877 §24; 2009 c.68 §21]

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<sup>106</sup> ORS 244.060(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.

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<sup>107</sup> ORS 244.042(3)(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

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<sup>108</sup> ORS 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.

**Public Official Guide** of this section does not apply if the only relationship between the public official and the lobbyist is that of a lobbyist and a client.  
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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. [1974 c.72 §7; 1975 c.543 §6; 1987 c.566 §14; 2007 c.865 §32

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<sup>109</sup> ORS 244.020(6)(b)(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

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<sup>110</sup> ORS 244.060(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.

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<sup>111</sup> ORS 244.100(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.

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<sup>112</sup> ORS 244.020(6)(b)(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:

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<sup>113</sup> ORS 244.060(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.

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<sup>114</sup> ORS 244.060(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. [1974 c.72 §5; 1975 c.543 §4; 1987 c.566 §11; 1991 c.770 §7; 1993 c.743 §12; 2003 c.14 §116; 2007 c.877 §19; 2009 c.68 §6]

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<sup>115</sup> ORS 244.070(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.

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<sup>116</sup> ORS 244.070(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.

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<sup>117</sup> ORS 244.070(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. [1974 c.72 §6; 1975 c.543 §5; 1987 c.566 §12; 2007 c.877 §20; 2009 c.68 §7]

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<sup>118</sup> ORS 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. [1974 c.72 §12; 1977 c.588 §6; 1987 c.566 §18; 1991 c.770 §3; 1993 c.743 §17; 2007 c.865 §1]

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<sup>119</sup> ORS 244.284 **Staff advice; effect of reliance on advice.** (1) Upon the written or oral request of any Public Official Guide director or other staff of the Oregon Government Ethics Commission may issue Page 83  
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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. [2007 c.865 §15; 2007 c.877 §39d]

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<sup>120</sup> ORS 244.284(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. [2007 c.865 §15; 2007 c.877 §39d]

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<sup>121</sup> ORS 244.282(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.

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<sup>122</sup> ORS 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. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

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<sup>123</sup> ORS 244.280(1) and (2) - (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. Page 84



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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.

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<sup>124</sup> ORS 244.280(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. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

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<sup>125</sup> ORS 244.280 through ORS 244.284 - **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. [1974 c.72 §15; 1975 c.543 §9; 1977 c.588 §8; 1987 c.566 §19; 1991 c.272 §2; 1993 c.743 §13; 2007 c.865 §12; 2007 c.877 §25a]

**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 **Public Official's Guide** opinions issued since the last regular meeting of the commission. The commission **Page 85**  
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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. [2007 c.865 §14; 2007 c.877 §39c; 2009 c.68 §12]

**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. [2007 c.865 §15; 2007 c.877 §39d]

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<sup>126</sup> ORS 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

Public Officials Guide this subparagraph, the Preliminary Review Phase must be completed not later than 135 days before the date of the election. Page 86

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 commission 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

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- (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. [1974 c.72 §13; 1989 c.807 §1; 1991 c.272 §1; 1991 c.770 §1a; 1993 c.743 §18; 1999 c.849 §§51,52; 1999 c.850 §1; 2003 c.75 §30; 2007 c.865 §23; 2009 c.163 §2]

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## 2011 – 2015 LEGISLATIVE UPDATES

### DISCLAIMER

This supplement is intended only for use as a tool in identifying recent legislative changes affecting text of the 2010 publication of the Oregon Government Ethics Commission’s Guide for Public Officials. **This document is not intended to replace the 2010 Guide for Public Officials, and may not reflect all legislative changes to Oregon Government Ethics Law (ORS Chapter 244) to date.**

### A PUBLIC OFFICIAL

**Are you a public official?**..... p. 5

- “First partner” added to definition of “public official” (“First partner” is also newly defined at ORS 244.020(6), resulting in extensive renumbering of the definitions that follow it at ORS 244.020, (7) – (17)). *[HB 2020 (2015)]*
- Definition of “public official” renumbered ORS 244.020(15). *[HB 2020 (2015)]*

**Who is a relative?**..... p. 7

- “Spouse of siblings of a public official or candidate” and “ spouse of siblings of the spouse of a public official or candidate” removed from definition of “relative”. *[HB 2079 (2013)]*
- Definition of “relative” renumbered ORS 244.020(16). *[HB 2020 (2015)]*

### USE OF POSITION OR OFFICE

**What are the provisions of law that prohibit a public official from using the position or office held for financial gain?**..... p. 10

- “Conflict of interest” definition referenced at ORS 244.020(12) renumbered ORS 244.020(13). *[HB 2020 (2015)]*

**Are there any circumstances in which a public official may use their position to accept financial benefits that would not otherwise be available but for holding the position as a public official?..... p. 12 - 13**

Honorarium

- Definition of “honorarium” renumbered ORS 244.020(8). *[HB 2020 (2015)]*
- Newly added ORS 244.042(4) prohibits the Governor, First Partner, Secretary of State, State Treasurer, Attorney General and Commissioner of the Bureau of Labor and Industries from soliciting or receiving an honorarium, money or any other consideration, as defined in ORS 171.725, for any speaking engagement or presentation. *[HB 2020 (2015)]*

Awards for Professional Achievement

- “Awards of appreciation” referenced at ORS 244.020(6)(b)(C) renumbered ORS 244.020(7)(b)(C). *[HB 2020 (2015)]*

**NEPOTISM**

**Does Oregon Government Ethics law prevent two or more relatives from being employees of the same public body?..... p. 14**

- “Relative” and “member of household” definitions at ORS 244.175 removed (apply “relative” and “member of household” definitions at ORS 244.020(16) & (11)). *[HB 2079 (2013)]*

**EMPLOYMENT OF FORMER PUBLIC OFFICIALS**

**What are the restrictions on employment after I resign, retire or leave my public official position?..... p. 18**

ORS 244.045(3)

- “Chief” removed from title of “Chief Deputy State Treasurer” (now “Deputy State Treasurer”). *[SB 11 (2011)]*

**CONFLICTS OF INTEREST**

..... p. 21 - 24

- “Conflict of interest” definition referenced at ORS 244.020(12) (“potential conflict of interest”) renumbered ORS 244.020(13). *[HB 2020 (2015)]*

## GIFTS

..... p. 26 - 32

- “Gift” definition referenced at ORS 244.020(6) (including the exceptions discussed with reference to ORS 244.020(6)(b)(A)-(P)) renumbered ORS 244.020(7). *[HB 2020 (2015)]*
- “Legislative or administrative interest” definition referenced at ORS 244.020(9) renumbered ORS 244.020(10). *[HB 2020 (2015)]*

**What does a public official need to know about a “Legislative or Administrative Interest”?**..... p. 31

- “Relative” added to listed persons permitted to accompany a public official at a reception, meal or meeting excluded from the definition of “gift” under ORS 244.020(6)(b)(E) (renumbered ORS 244.020(7)(b)(E)). *[SB 293 (2015)]*

## GIFTS AS AN EXCEPTION TO THE USE OF OFFICE PROHIBITION IN ORS 244.040

..... p. 33 - 37

- “Gift” definition referenced at ORS 244.020(6) (including the exceptions discussed with reference to ORS 244.020(6)(b)(A)-(P)) renumbered ORS 244.020(7). *[HB 2020 (2015)]*

## ANNUAL VERIFIED STATEMENT OF ECONOMIC INTEREST

..... p. 38 - 39

- NOTE: Annual Verified Statements of Economic Interest (SEI) will be filed online beginning April 2016. As a result of the Commission’s new electronic filing system, paper copies of the form will no longer be mailed directly to each public official required to file. Rather, notifications and instructions for e-filing will primarily be sent to SEI filers electronically via email. The Commission will now require the contact person for each jurisdiction to maintain and provide email addresses for each SEI filer in addition to the other relevant contact information.

**SEI Form**..... p. 40

- Reportable expenses paid for attending event specified in ORS 244.020(6)(b)(F) & (H) renumbered ORS 244.020(7)(b)(F) & (H). *[HB 2020 (2015)]*

## OREGON GOVERNMENT ETHICS COMMISSION

..... p. 41

- Voting members of the Commission is increased to 9 (was 7). *[HB 2019 (2015)]*
- 2 recommended by Senate Democratic leadership (was 1). *[HB 2019 (2015)]*
- 2 recommended by Senate Republican leadership (was 1). *[HB 2019 (2015)]*
- 2 recommended by House Democratic leadership (was 1). *[HB 2019 (2015)]*
- 2 recommended by House Republican leadership (was 1). *[HB 2019 (2015)]*
- 1 recommended by the Governor (was 3). *[HB 2019 (2015)]*
- No more than 3 commissioners in the same political party may be appointed to the Commission to serve at the same time (was 4). *[HB 2019 (2015)]*

**If a person requests, receives or relies on any of the advice or opinions authorized by ORS 244.280 through ORS 244.284, does that person have what is referred to as “safe harbor” protection from becoming a respondent to a complaint filed with or initiated by the Commission?..... p. 44 - 46**

### Complaint Review Procedures

- Preliminary Review Phase shortened from 135 days to 30. *[HB 2019 (2015)]*
- If a pending criminal matter is related to the same circumstances or actions to be addressed in Preliminary Review, suspension is no longer required unless a court has enjoined the Commission from continuing its inquiry. *[HB 2019 (2015)]*
- Commission may no longer consent to respondents’ requests for waiver of the Preliminary Review Phase time limit (except for complaints against candidates within 61 days of an election). *[HB 2019 (2015)]*
- Preliminary Review now technically ends when Executive Director completes the statement of facts determined; the Commission meets in executive session to conduct deliberations and vote on complaints following the close of Preliminary Review. *[HB 2019 (2015)]*
- The Investigatory Phase “may” be suspended during pending criminal investigation if the Commission determines that its own investigation cannot be adequately completed until criminal investigation is complete, or if a court enjoins the Commission from investigation. *[HB 2019 (2015)]*
- The maximum civil penalty that can be imposed for any Government Ethics violation is \$5,000, except for “willful” violation of ORS 244.040 (the “prohibited use of position or office” provision) where the maximum is increased to \$10,000 (does not affect \$1,000 maximum on civil penalties for executive session violations). *[HB 2020 (2015)]*



DATE: October 19, 2016

TO: Board of Commissioners

FROM: Mary Parker

RE: Agenda Item Resolution Number Change

Resolution 2016-02 was inadvertently numbered wrong due to my not checking the file of previously approved Resolutions for 2016 more closely. Resolution 2016-02 should actually be numbered as Resolution 2016-05. No change is needed to the content of the resolution.



SUNSET EMPIRE TRANSPORTATION DISTRICT  
Board of Commissioners

RESOLUTION 2016-02 05

RESOLUTION ADOPTING THE SETD LONG RANGE COMPREHENSIVE TRANSPORTATION PLAN

**WHEREAS**, the Sunset Empire Transportation District (hereinafter, SETD) applied for and were awarded a Transportation Growth Management (TGM) grant through the Oregon Department of Transportation (ODOT) to create a long range comprehensive transportation plan; and

**WHEREAS**, the ODOT TGM Program retained DKS Associates, Inc. to prepare SETD’s Long Range Comprehensive Transportation Plan (LRCTP); and

**WHEREAS**, the SETD LRCTP provides a blueprint of future transit service improvements based on recommendations from customers, the general public, social service agencies, Clatsop County and the cities served by the District; and

**WHEREAS**, the SETD LRCTP also contains recommended capital plans and performance measures to evaluate proposed transit service enhancements as well as current services being provided by the District.

**NOW THEREFORE, BE IT RESOLVED** by the Sunset Empire Transportation District Board of Commissioners:

That the SETD Board of Commissioners hereby adopts the Sunset Empire Transportation District Long Range Comprehensive Transportation Plan, Dated September 2016.

MOTION OF ADOPTION

Name	Aye	Nay	Absent
Chair Kleczek			
Commissioner Gaebel			
Commissioner Gearin			
Commissioner Widener			
Commissioner MacDonald			
Commissioner Lewicki			
Commissioner Servino			

PASSED BY A MAJORITY OF THE BOARD OF COMMISSIONERS WITH A QUORUM IN ATTENDANCE THIS  
\_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.

SUNSET EMPIRE TRANSPORTATION DISTRICT, CLATSOP COUNTY, OREGON

By \_\_\_\_\_

Title: Kathy Kleczek, Board Chair

ATTEST:

By: \_\_\_\_\_

Title: Carol Gearin, Board Secretary/Treasurer

Executive Director Report  
October 2016 Board Meeting Report  
Jeff Hazen

-IT Services

I received satisfactory answers to the questions that the Board had posed at the last meeting in regards to contracting with mindSHIFT for Information Technology (IT) services. They have sent me an agreement and after reviewing it, I had some concerns with some of the language in the Terms of Service. I had Jeanyse Snow review it as well and she agreed with my concerns. I have submitted edits to the agreement to mindSHIFT and am waiting to hear back from them.

-Trimet Hop

For those of you unfamiliar with Trimet's new Hop Fastpass program, it is a reloadable fare card that riders can use to ride Trimet buses and MAX, the Portland Streetcar, and C-Trans buses in Clark County, WA. It is currently being used by beta testers and will roll out to the public next year. A study is being done to see if this program can be regionalized even further and we have been invited to participate in the study. The agencies involved are Trimet, Lane Transit, SETD, Yamhill County, Wilsonville SMART, Ride Connection, Salem-Keizer Transit, Columbia County, ODOT Point program, ODOT Regions 1 and 2, Hood River County Transportation, Sandy Area Metro, and Clackamas County. ODOT contacted us this week and we were given a copy of proposed questions that the consultants will be asking other agencies that have a program like this. They also wanted to know what our top questions would be. I submitted four questions in regards to cost both upfront and recurring, what cost savings are being experienced and how were different agency's fare structures impacted. Here is a link to the Hop program:

<http://myhopcard.com/>

This will be very interesting to follow and see if it can work for us. My feeling is that this is a high priority project for ODOT which could mean there will be ODOT money available for an expansion.

-Columbia County

I am still waiting for the funding agreement from ODOT for the feasibility study. I talked with Jamey about it this week and he indicated that the agreement has been finalized by staff and that it is on Hal Gard's desk for his final review. Also, Columbia County has been in talks with another candidate about filling the transit director role that is vacant again. It is a gentleman out of Edmonton Canada that is the retired head of the transit system up there. Apparently, he was their first choice when Janet retired but they could not come to agreement on terms of employment. They had things worked out this time, but now there is an immigration issue.

-CTAA

I am part of a 10-member Rapid Response Team for CTAA. When they have an issue or need input on something right away, we are emailed with the question and we respond individually within 24 hours.

-Oregon Public Transportation Plan

As a reminder, be sure to go to <https://www.oregon.gov/ODOT/TD/TP/Pages/optp.aspx> and provide your input on the plan.

-Employee of the Quarter

Congratulations to Debbie Bauer who was selected this week as our Employee of the Quarter! She does a great job helping people on the phone and at the counter in the transit center. We also received a very nice thank you card from a lady in Minnesota applauding Debbie's efforts in helping her son with a very complicated trip plan.

-Quarterly District Review and self-review

At the end of this report are the quarterly reviews.

Weekly Reports:

10/17/16

Last week, we held another OBSS meeting to discuss the proposal that was submitted to us by the developer of OBSS. We have asked all of our respective brokerage managers and IT/IS personnel to weigh in on the proposal submitted. Unfortunately, their comments were mostly negative so the Executive Directors will be meeting further and discussing next steps. PTAC held a meeting in Portland and Senator Johnson was given time to address the committee. This was the follow up to the discussion I had with her a couple of weeks ago about the general feeling among Oregon transit providers that she is not supportive of public transit. She made it very clear at the meeting that she is a supporter of public transit and she admits that her views have been jaded by what she has seen in Columbia County. She brought up things like transparency and I questioned her at the meeting asking her what she meant by that. She gave examples of things that have happened throughout the years in Columbia County. I assured her that what has been going on in Columbia County is not typical whatsoever throughout all of the other transit agencies in Oregon. She was very complimentary of our District at the meeting and referred to some of the letters that have been written to her by Board members. She offered up some suggestions for the transit group to think about as we go into the legislative session next year. Everyone appreciated her willingness to come to the meeting and make her views clear to the group. She also attended the OTA meeting the next day and shared the same message. Kevin and I attended the OPTP listening session in Portland. It was well attended with a good mixture of transit providers, transit advocates and transit users. We were broken up into small roundtable groups to discuss what barriers and opportunities need to be included in the plan that they are currently putting together. I would encourage all of you to go to the OPTP website and follow the link to the Online Open House to submit your thoughts. The deadline is 10/26/16. <https://www.oregon.gov/ODOT/TD/TP/Pages/optp.aspx>. When we returned from Portland, I went to Gearhart City Hall for their TSP open house. As far as transit related suggestions, they have identified shelters being the most important priority for the transit portion

of their plan. I shared with the consultants our process for determining types of bus stops. We did discuss that if the City wanted to fund full on shelters, that would be great. I shared Cannon Beach's example. On Friday, NWOTA held its monthly meeting via telephone. This meeting was the official review and determination of which company we are going to contract with to develop the NWOTA website. There were 4 proposals submitted, 2 really good ones and 2 that were not so good. We each had reviewed and scored the proposals prior to the meeting and everyone ranked the proposals the same. We will be going with Trillium to develop the website. There is a 7 day protest period that started on Friday and then we will move ahead with discussions with Trillium on the process of developing the new site. The meeting got cut short due to all of the weather issues we were having Friday morning. Both Doug and I had to focus on tornadoes! Scott and I were in touch with each other on Saturday to review service adjustments that would need to happen based on the "monster" storm expected. We did cancel the run again to Manzanita on Saturday because I was concerned that our bus could get stranded their based on the expectation of a large storm. Fortunately, the storm didn't hit us as hard as expected so we were able to run normal service for the rest of the day.

The week of the 26th Al and I went to Portland to meet with our counterparts at the Columbia Pacific Coordinated Care Organization to review how things are going and to talk about some contract adjustments. It was a good meeting and they were extremely complimentary of the job that Jason and the team at RideCare do for them. I set up an online meeting to be held late this month with all of the municipal planners in the county to go over the transportation plan and what kind of language we would like them to incorporate into their plan updates. I got to spend some time working in RideCare because they were shorthanded due to some resignations. We have hired new employees to fill the openings and they are now going through training. One of the things that I have discussed with Jason is the need for some additional supervision at RideCare so I have given him the green light to post an opportunity for someone to become a lead in the office to be able to help support the crew at RideCare with any challenges that they may face. Having this will also allow Jason to actually take a vacation and have somebody be responsible for solving any issues that arise. I told Jason that when he is on vacation, he will be turning over his District cell phone to the lead so he can enjoy his Disneyland vacation with his family. I will obviously be in close contact with the lead throughout the time Jason is out.

10/12/16

Doug from Tillamook had shared with me last year that this conference was one of the best ones to attend. I caught up with him on Sunday of last week for the long session on the OMB's (Office of Management and Budget) Super Circular: What this Guidance Means for FTA Grantees. It was presented by Rich Garrity who was the consultant assigned to us for our compliance review. We learned many of the administrative requirements, cost principles and audit requirements for Federal awards. At the opening night reception, I joined all of the other first time attendees as we embarked on a trivia contest/scavenger hunt. We were divided into 3 person teams and had to find the answers to several trivia questions in 3 categories, conference trivia, transportation trivia, and Asheville trivia. It was a great way to meet other people from across the country to help us answer the questions. My team didn't win, but we gave it a good shot! The keynote speaker on Monday morning was Ellen Vanderslice from Portland and she

spoke about active transportation in rural areas and her experiences. Throughout the rest of the conference, I attended several breakout sessions involving several different topics including technology solutions, marketing best practices, mobility management through effective coordination, public transportation in rural areas as an economic benefit, GTFS (general transit feed system) implementation. I also popped in on the session that Doug presented at telling the North by Northwest Connector. I stood next to a gentleman from New Hampshire that had several questions about how we have it set up so I got to spend time with him going more in-depth on what we have built. Getting out of Asheville proved to be challenging due to weather in Chicago. Between the weather issues and mechanical issues with the plane, we were delayed over 6 hours so United was nice enough to put me up for the night in Chicago since I missed my connecting flight. Besides getting caught up, I'm working on the IT services agreement this week and will be going to Portland with Keven tomorrow to attend the Oregon Public Transportation Plan meeting.

FY 15-16 Executive Director Goals		Evaluation			
Goal	Due By	Complete	On Time	Quality	Comments
Update all personnel policies for Board Approval	1/31/2016	N	N	n/a	This has not been finalized yet. Tami and I are working on it as time allows. Realistically, I don't foresee it being done until the end of December.
Develop a wage comparison study for all positions and make recommendations to the Board for any wage adjustments.	1/31/2016	Y	Y	3	This was accomplished and presented to the Board during it's April meeting. The Board asked that it be incorporated into the budget for FY 17.
Develop a Facilities Maintenance Plan	12/31/2015	Y	N	4	I'm very pleased with the plan. When I presented it to our Regional Transit Coordinator, Jamey Dempster, he only had two very minor edits.
Develop a Leadership Training program for the Leadership Team of the District	3/13/2016	Y	N	3	We have started utilizing the trainings that are available through the RTAP. Tami has been working on setting up actual course assignments. This will include annual trainings that I will give during Team meetings.
Strongly advocate rural transportation funding with our state and federal legislators.	Ongoing	Y	N/A	4	My recent interaction with Senator Johnson shows that I can be an effective advocate with our legislative representatives. It is a reflection on how well thought of SETD is throughout the State. Being in a leadership role on PTAC has also been a plus for the District.
				5	Outstanding
				4	Exceeds Goal
				3	Meets Goal
				2	Partially Meets Goal
				1	Does Not Meet Goal



Date: October 19, 2016

To: SETD Board of Commissioners

From: Jeff Hazen  
Executive Director

Re: Quarterly District Review

This is the quarterly review of the District for the Board of Commissioners.

- **Operations**

- Fixed route ridership for the last quarter was up over 19% over the same quarter in FY '15. The increases for each route are as follows:

Route 10	19.7%	Route 101A	(4.7%)
Route 11	78%	Route 101B	132.6%
Route 12	26%	Route 101 Total	16.5%
Route 20	5.8%	Lwr. Col. Conn.	70.4%
Route 21	(5.4%)	Pacific Connector	3%
Streetcar	(23.9%)	Fixed Route Total	19.4%

- Relief driver recruitment continues.

- **RideAssist**

- Jennifer has settled into her role as supervisor and is doing a good job training Maryanne as the operations assistant. Overall ridership in RideAssist was up by 10% over last year for the quarter. Interestingly, while paratransit rides were up by 5.3%, escort rides were up by 40.8%.

- **RideCare**

- Personnel turnover continues to plague RideCare. We lost another 3 employees for 3 unrelated reasons. Fortunately, we had a great pool of people apply for the vacant positions and we were able to hire 3 good quality individuals. We brokered 19,011 transportation rides compared to 16,940 last year, an increase of 12.2%.

- **Mobility Management**

- We are currently providing services to 32 Veterans through the new program. That is up from 19 the previous quarter. Shana did a travel training presentation at the Astoria Senior Center and had over 20 people in attendance!

- **Transportation Options**
  - Shasia has been doing a lot of work within the Safe Routes to Schools program. In July she held a transit tour to help show people how to ride the bus. She has also been assisting Shana in prepping for travel training. A lot of prep was done for the October Drive Less Challenge.
  
- **Outreach**
  - The new schedule/map was received and distributed throughout the area. We have received a lot of great comments about them. The coasters are a big hit as well. Based on the numbers we experienced on the Seaside Streetcar, we are going to have to reevaluate our efforts around marketing the service. Mary got out in the Spring but we may have to expand our outreach throughout the summer months.
  
- **HR (Human Resources)**
  - The new time clock is up and running well. Tami continues to learn some of the features of it and is very pleased with the features she has discovered. She has had to do several orientations since we hired some drivers and RideCare personnel.
  
- **Finance**
  - General fund revenues are ahead of budget by \$56,000, Personnel related expenses are below budget by \$25,000, Materials and Services are below budget by \$119,000, other expenses are over budget by \$92,000 due to receiving both new buses in September when we planned for one and for the other one in October. Net income is ahead of budget by \$107,000. RideCare income is under budget by \$87,000. As Al explained in the exceptions report, the CCO is experiencing a decrease in membership and that is projected to continue. We will be having a supplemental budget at the December meeting. RideCare personnel related services are under budget by \$25,000, materials and services are under budget by \$138,000. Net income is ahead of budget by \$76,000.
  
- **Technology**
  - Things worked fairly smoothly without having an IT person on staff any longer. Fortunately, John has been able to handle the issues that have popped up during this time of transition.
  
- **Transit Center/Kiosk**
  - For the second quarter in a row, a transit center employee has been selected as Employee of the Quarter. They do such a good job helping people out at the counter and on the phone.

**“The Bus” (Fixed Route) Highlights:**

- **39,444 people** used fixed routes in September for an average of **1,314.8 riders per day**.
- **50.0% increase** in average passengers who rode fixed routes per day from last September (633.9 to **1,314.8**)
- **17.3 people per hour**, on average, got on any fixed route at any time that the bus runs in September. **27.2% increase** (13.6 to 17.3) from last September.
- **0.1% decrease** in the ratio of elderly/disabled riders from last September (33.6% to **33.5%**)

**RideAssist Highlights:**

- **734 rides** were provided by RideAssist in September for an average of **30.6 rides per day**.
- **24.3% increase** in average RideAssist passengers per day from last September (24.6 to **30.6%**)
- **16.3% increase** in all ADA Paratransit rides from last September (479 to **557**)

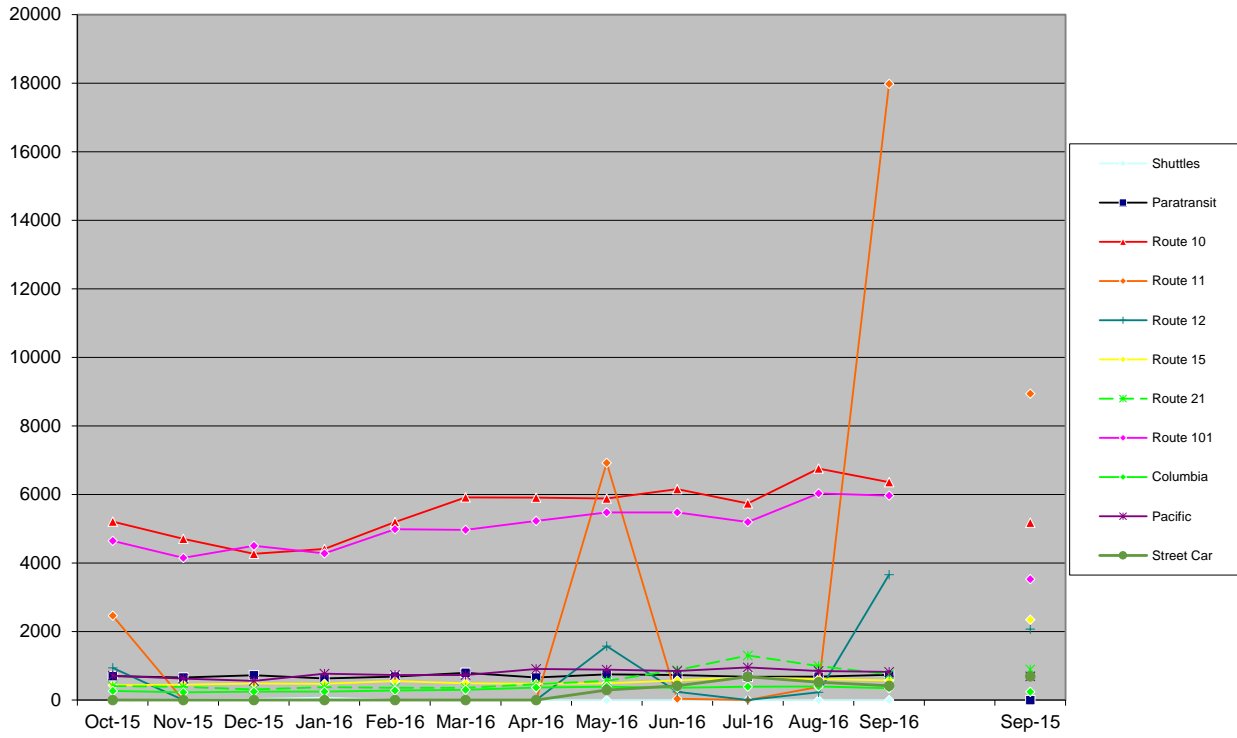
**Clatsop Care Center Health District Highlights:**

- **0 people** were provided by SETD in September for an average of **0 riders per day**.

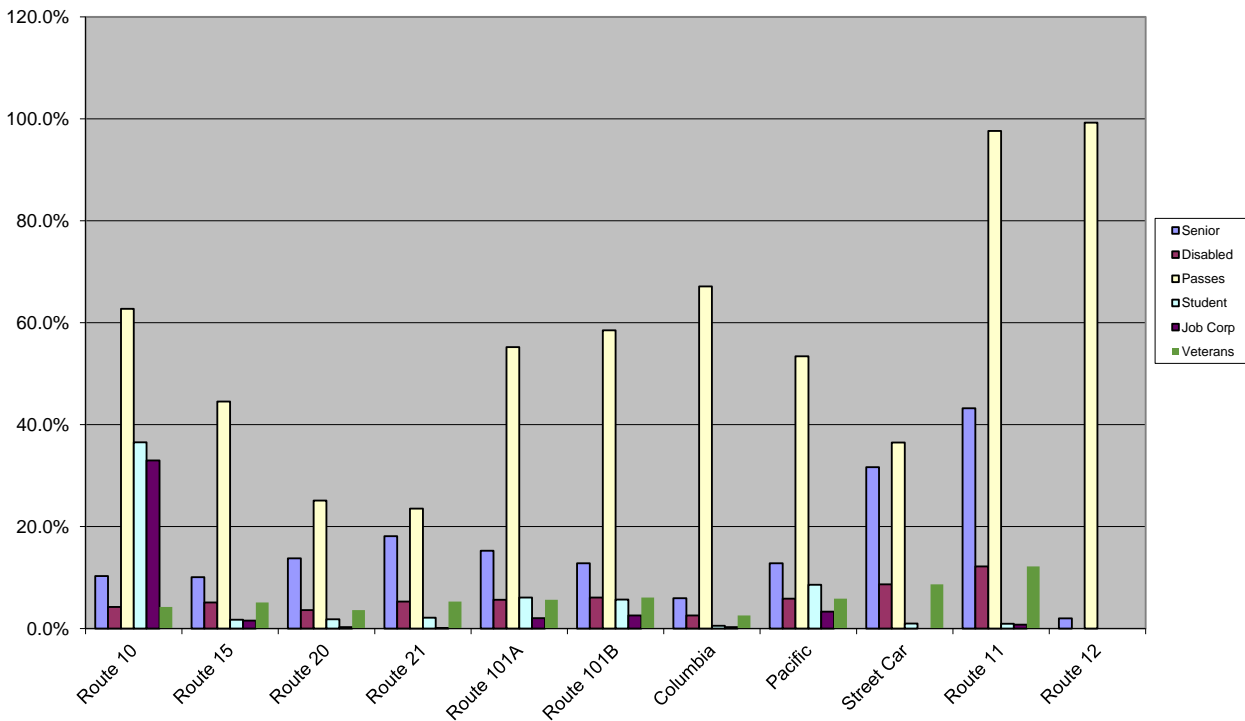
**System Highlights:**

- **40,178 people** used Sunset Empire Transportation in September for an average of **1,339.3 riders per day**.
- **50.1% increase** in all average passengers per day from last September (892.4 to **1,339.3**)

**SETD Rides**



**Rider Breakdown by Route**



Operations  
October Board Meeting Report  
Scott Earls

1. The Route 11 and 12 for this year was 36,267, with 1 day to go (Oct.22nd.) Sept. alone we had 21,527 riders on the 11 and 12 routes.
2. We survived the Oct. storms with just a few adjustments. We canceled the Manzanita runs on the 2 worst days of the storms. Not surprisingly the ridership seemed to be down for that weekend.
3. Daylight hours are getting shorter for our drivers and this makes the job just a little harder to see riders alongside the road. We have a number of new drivers so we will work with them to watch for riders. At this time of year we try to get flashing lights to the riders that are in these areas.

RIDEASSIST  
October 2016 Report  
Jennifer Geisler

- In September, Paratransit had 734 rides for an average of 30.6 rides per day. There was a 24.3% increase in all RideAssist rides from September 2015. ADA rides increased 16.3% from last September, 479 to 557 ADA rides. We provided 65 RideCare rides for September. The ADA Paratransit rides have continued to increase. With our three Paratransit drivers averaging 30 rides a day, servicing an area between Emerald Heights and Cannon Beach, we are seeing longer wait times for clients, more shared rides, longer days for our drivers and less RideCare rides to fit into our schedule.
- Dial-A-Ride had 0 rides in the month of September.
- There were five new ADA Paratransit applications received. Two used the service within their first month.
- The Paratransit drivers sold three orange ticket books and seven green ticket books.
- There were 159 veteran rides given.
- There were 3 ride denials for ADA Paratransit rides due to the lack of capacity of the requested times.
- For the month of September, we provided three ADA Paratransit weekend rides on two different weekends and 12 evening rides that took place after six in the evening. ADA paratransit clients are requesting more evening and weekend rides.

**Paratransit Fares Collected for June**

- Para-transit Fares: \$894
- Tickets Collected: \$618
- Medicaid Collected: \$1153
- Ticket books sold: \$249

Marketing and Outreach  
October 2016 Board Meeting Report  
Mary Parker

I have been working on making improvements to our web pages. Changes and updates that have been made so far are:

- SETD Route information can be clicked open from our home page.
- Connecting services (Tillamook and Columbia County Services) can be accessed from our home page
- Other transit service websites (Point bus and Pacific County Transit) can be accessed from our home page
- Tickets, passes and Paratransit and Honored Citizen applications can be clicked on from our home page.
- The Veterans Benefits Outreach Program has a new web page
- Transportation Options was updated for the Drive Less Challenge
- Pictures on the home page have been updated and are our own pictures

I have been working on an outreach plan for the Columbia Connector services that will also include information about and can be utilized by the Columbia County Rider. This goal is to develop newspaper ads, digital marketing and radio ads that will be scheduled sequentially to promote use of the Columbia Connector as an option for traveling between Astoria and Portland. We will be sharing expenses with Columbia County Rider for these outreach costs.

Mobility Management  
October 2016 Board Meeting  
Shana Verley

**\*Training and Research**

I completed the webinar: *ATI Travel Training: Unplugged and Inspired*. Sept 18-21 I traveled to Wenatchee Washington to the annual Washington State Department of Transportation (WSDOT) Conference and Sept 25-28 and to Breckenridge Colorado to the Transportation Research Board Conference that was given on ADA Paratransit. I feel very lucky that I was able to attend both of these conferences, I was enlightened by a lot of useful, new information that I feel will help me be more successful in my position.

**\*Program Development**

Our Veterans Enhanced Transportation Program is still running strong. We currently have 32 veterans signed on either receiving or going to receive services.

**\*Outreach**

On September 15<sup>th</sup> I went to the Senior Center along with Mary and Shasia (as backup ☺ ) to give my first Travel Training Presentation. For this presentation everyone received a packet with information about all SETD's programs. There were approximately 25 attendants that were very pleased with given presentation.

I met with Di Stuppy from AARP and gave her 100 packets to distribute among her students.



Transportation Options Report  
October 2016 Board Meeting  
Shasia Fry

### Safe Routes to School

On September 20<sup>th</sup>, Dale Mcdowell and I presented to the Seaside School District. Our presentation was well received and we got a “go ahead” from the board. They have assigned the head of the district’s maintenance, to oversee the Safe Routes to School program for Seaside. Our presentation was attended by the Daily Astorian and on October 2<sup>nd</sup>, we were featured on the front page. Ken Stonwiler from ODOT read our article and reached out to Dale and I. He has worked on several other Safe Routes to School programs and would like to give us assistance from the State.

I was contacted by LeeAnne Ferguson, who works for the Bicycle Transportation Alliance and Oregon Safe Routes to School. She asked me to participate in the making of a video for their “Every Kid Counts” Safe Routes to School video campaign. I created two videos, one specific to the coast and one generic video for Oregon.

### Drive Less Oregon Challenge

#### **Outreach**

During the last 2 weeks of September, I focused on outreach for our Oregon Drive Less Challenge. I traveled to all 3 counties handing out posters and information on the challenge. Social media and email have been the most successful way of promoting the challenge and therefore I have been utilizing that platform.

#### Facebook

353 likes

Average post reach 500, boosted 1300

32% post engagement (people clicking on links, liking post and sharing posts)

#### Mailchimp emails

4 rounds of emails sent out

161 recipients for all 3 counties

27% email open and engagement

#### **Results**

The Drive Less Challenge ran from October 1-15<sup>th</sup>. We do not calculate the mileage or the number of trips until November 1<sup>st</sup>, as participants are able to log their mileage until that date. As of September 1<sup>st</sup> 2016 we had 198 users in our network. As of October 15<sup>th</sup>, we had 252 users. Last year, of those 198 users we had only a 23% participation rate. This year we had 54 new users and a 42 % participation rate.

The final results and numbers will be done in December.

It has been a slow month in IT this month. Of note for the month:

- The computers and phones survived the beginning of the storm season without any loss of production.
- One of the RideCare computers stopped working. We found an old computer to hold them over. Jason purchased a new computer to replace it and we should have it running soon.
- We are still working on getting call recording at RideCare. The phone company is still searching for a solution but as a temporary solution, they have given Jason a phone that can record calls. You have to push a button to record the call but something is better than nothing. Jason is testing the phone.
- We still need to purchase new computers for Scott, Shana and Shasia. We are waiting for the local tax funds to come in.

Human Resource Report  
October Board Meeting Report  
Tami Carlson

- With the busy fall cruise ship season upon us we hired 2 relief drivers. Bob Bastiani and Susan Drew. In the past Bob drove for SETD during the summer months on the Seaside Street Car. Welcome back Bob! Susan comes from Washington and drives part-time for Pacific Transit. On numerous occasions she drove the Washington to Astoria bus into our TC.
- September 2<sup>nd</sup> and September 7<sup>th</sup> attended online trainings for the PeoplePro timeclock software system. The trainings were basic timekeeping and maintenance trainings. Overview of running, modifying, sorting, filtering, grouping, saving and exporting reports. Both Techs gave excellent tutorials. There are many features to the program and will continue training on each as needed.
- RideCare had 3 staff members unexpectedly leave the Team. A new hiring process began this month to replace CSR/Dispatchers.
- September 29<sup>th</sup> attended a Drug & Alcohol Program Manager (DAPM) Comprehensive Training in Salem presented by Sean Oswald from RLS Associates. This training was a full-day course providing a comprehensive overview of the FTA Drug and Alcohol Testing Program. Sean helped SETD with establishing the Zero Tolerance Drug and Alcohol Policy.

RideCare Report  
October 2016 Board Meeting  
Jason Jones

- RideCare has experienced a setback in our staffing as 3 teammates left the company in September after only a short employment. RideCare is now short-handed but thanks to SETD the brokerage has the backup necessary to continue without much interruption. The hiring process is well under way and we look to have positions filled by the beginning of October. Start dates will be towards the middle of October.
- The Volunteer Coordinator piece at RideCare has been a huge success. Donna has such a strong ability to communicate with people and has been constantly helping organize the volunteers. Dispatches are getting to them more efficiently, operational notes are being shared in a timelier manner and ultimately our members are getting serviced better.
- In my monthly CPCCO CAP meeting we continued to look at how the group is addressing the Opioids abuse and how we can lesson that through better prescribing and utilizing Drug and Alcohol treatment facilities to help in transitions.
- I was asked to prepare an NEMT presentation for our local CAP in Seaside for early October. I have been spending time getting ready to present to this local team and look forward to sharing how our program works.
- RideCare is preparing for winter scheduling from our members. Members tend to get their children in for routine checkups around this time of the year so we look to see a slightly busier time in the following month.
- With 2 less working days in September, RideCare slowed slightly with our total IN/OUT call totals hitting 9,787 which gave us an average of 461 daily calls. Because of our decrease in staffing, we did suffer a little with average call team call averages over 115 per person. This average per person is very high and we expect to see this average for a little into October as well. Our average call time took a slight hit and went up from 2.5 minutes to 3 minutes per call.