

A-Engrossed
House Bill 3127

Ordered by the Senate June 22
Including Senate Amendments dated June 22

Sponsored by Representative JENSON (at the request of Oregon Trail Electric Company)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Modifies definition of "business" under Oregon government standards and practices law to exclude certain nonprofit corporations.

A BILL FOR AN ACT

1
2 Relating to nonprofit corporations under Oregon government standards and practices law; creating
3 new provisions; and amending ORS 244.020.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 244.020 is amended to read:

6 244.020. As used in this chapter, unless the context requires otherwise:

7 (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-
8 son acting in a capacity as a public official, the effect of which would be to the private pecuniary
9 benefit or detriment of the person or the person's relative or any business with which the person
10 or a relative of the person is associated unless the pecuniary benefit or detriment arises out of cir-
11 cumstances described in subsection (14) of this section.

12 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,
13 association, organization, self-employed individual and any other legal entity operated for economic
14 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section
15 501(c) of the Internal Revenue Code with which a public official **or a relative of the public official**
16 is associated **only as a member or board director or** in a nonremunerative capacity.

17 (3) "Business with which the person is associated" means:

18 (a) Any private business or closely held corporation of which the person or the person's relative
19 is a director, officer, owner or employee, or agent or any private business or closely held corpo-
20 ration in which the person or the person's relative owns or has owned stock, another form of equity
21 interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding cal-
22 endar year;

23 (b) Any publicly held corporation in which the person or the person's relative owns or has
24 owned \$100,000 or more in stock or another form of equity interest, stock options or debt instru-
25 ments at any point in the preceding calendar year;

26 (c) Any publicly held corporation of which the person or the person's relative is a director or
27 officer; or

28 (d) For public officials required to file a statement of economic interest under ORS 244.050, any

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 business from which 50 percent or more of the total annual income of the person and members of
2 the person's household is derived during the current calendar year.

3 (4) "Commission" means the Oregon Government Standards and Practices Commission.

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

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

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

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

15 (b) Gifts from family members.

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

19 (d) The giving or receiving of food or beverage if the food or beverage is consumed by the public
20 official or the public official's relatives in the presence of the purchaser or provider thereof.

21 (e) The giving or receiving of entertainment if the entertainment is experienced by the public
22 official or the public official's relatives in the presence of the purchaser or provider thereof and the
23 value of the entertainment does not exceed \$100 per person on a single occasion and is not greater
24 than \$250 in any one calendar year.

25 (8) "Honoraria" means a payment or something of economic value given to a public official in
26 exchange for services upon which custom or propriety prevents the setting of a price. Services in-
27 clude, but are not limited to, speeches or other services rendered in connection with an event at
28 which the public official appears in an official capacity.

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

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

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

38 (12) "Member of household" means any relative who resides with the public official.

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

41 (14) "Potential conflict of interest" means any action or any decision or recommendation by a
42 person acting in a capacity as a public official, the effect of which could be to the private pecuniary
43 benefit or detriment of the person or the person's relative, or a business with which the person or
44 the person's relative is associated, unless the pecuniary benefit or detriment arises out of the fol-
45 lowing:

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

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

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

11 (15) "Public official" means any person who, when an alleged violation of this chapter occurs,
12 is serving the State of Oregon or any of its political subdivisions or any other public body of the
13 state as an officer, employee, agent or otherwise, and irrespective of whether the person is com-
14 pensated for such services.

15 (16) "Relative" means the spouse of the public official, any children of the public official or of
16 the public official's spouse, and brothers, sisters or parents of the public official or of the public
17 official's spouse.

18 (17) "Statement of economic interest" means a statement as described by ORS 244.060 to 244.080.

19 (18) "Statewide official" means the Secretary of State or Secretary of State-elect, State Treas-
20 urer or State Treasurer-elect, Superintendent of Public Instruction or Superintendent-elect of Public
21 Instruction, Attorney General or Attorney General-elect and the Commissioner of the Bureau of
22 Labor and Industries or the Commissioner-elect of the Bureau of Labor and Industries.

23 (19) "Zoning commission" means an entity to which is delegated at least some of the discre-
24 tionary authority of a planning commission or governing body relating to zoning and land use mat-
25 ters.

26 **SECTION 2. The amendments to ORS 244.020 by section 1 of this 2005 Act apply to:**

27 **(1) Activities that occur on or after the effective date of this 2005 Act; and**

28 **(2) Complaints received and proceedings, actions, prosecutions or other business or**
29 **matters undertaken or commenced under any provision of ORS chapter 244 on or after the**
30 **effective date of this 2005 Act.**

31