

# Senate Bill 26

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## 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 **as introduced**.

Authorizes Attorney General to represent public officer or body as lead plaintiff in certain class action proceedings.

## A BILL FOR AN ACT

1  
2 Relating to authority of Attorney General to represent lead plaintiff in class action; creating new  
3 provisions; and amending ORS 180.060.

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

5 **SECTION 1.** ORS 180.060 is amended to read:

6 180.060. (1) The Attorney General shall:

7 (a) Appear for the state in the trial of all civil and criminal causes in the Supreme Court or the  
8 Court of Appeals in which the state may be directly or indirectly interested.

9 (b) Appear for the state, when required by the Governor or the legislature, in any court or  
10 tribunal in any cause in which the state is a party or in which the state is directly interested.

11 (c) Appear, commence, prosecute or defend for the state all causes or proceedings in the Su-  
12 preme Court or the Court of Appeals in which the state is a party or interested.

13 (d) Appear, commence, prosecute or defend any action, suit, matter, cause or proceeding in any  
14 court when requested by any state officer, board or commission when, in the discretion of the At-  
15 torney General, the same may be necessary or advisable to protect the interests of the state.

16 (2) The Attorney General shall give opinion in writing, when requested, upon any question of  
17 law in which the State of Oregon or any public subdivision *[thereof]* **of the state** may have an in-  
18 terest, submitted to the Attorney General by the Governor, any officer, department, agency, board  
19 or commission of the state or any member of the legislature.

20 (3)(a) Except as provided in paragraph (b) of this subsection, the Attorney General *[shall]* **may**  
21 not render opinions or give legal advice to others than *[such]* **the** state officers listed in subsection  
22 (2) of this section.

23 (b) The Attorney General may, at the request of a state officer listed in subsection (2) of this  
24 section[,];

25 (A) Render an opinion to an officer, agency or instrumentality of the federal government if the  
26 Attorney General determines that providing the opinion is necessary to meet a condition for as-  
27 sumption by the state of administrative or enforcement responsibilities under federal law.

28 **(B) Represent the state, an agency or officer of state government or a political subdivi-**  
29 **sion of the state as a lead plaintiff or representative party in a class action involving a claim**  
30 **relating to a security in which the putative class members include persons that are not**

**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 **agencies or officers of state government as defined in ORS 174.111 or political subdivisions**  
 2 **of the state.**

3 **(c) As used in this subsection:**

4 **(A) "Security" has the meaning given that term in ORS 59.015.**

5 **(B) "State government" has the meaning given that term in ORS 174.111.**

6 (4) The Attorney General shall consult with, advise and direct the district attorneys in all  
 7 criminal causes and matters relating to state affairs in their respective counties. The Attorney  
 8 General may require their aid and assistance in all matters pertaining to the duties of the Attorney  
 9 General in their respective counties and may, in any case brought to the Supreme Court or the  
 10 Court of Appeals from their respective counties, demand and receive assistance of the district at-  
 11 torney from whose county such case or matter is brought.

12 (5) The Attorney General shall, when requested, perform all legal services for the state or any  
 13 department or officer of the state.

14 (6) The Attorney General shall have all the power and authority usually appertaining to such  
 15 office and shall perform the duties otherwise required of the Attorney General by law.

16 (7) The Attorney General shall assign to each agency, department, board or commission an as-  
 17 sistant who shall be *[its]* **the** counsel responsible for *[insuring]* **ensuring** the performance of the le-  
 18 gal services requested by *[such]* **the** agency, department, board or commission. The counsel shall be  
 19 a person trained in the *[law concerning such]* **laws concerning the** agency, department, board or  
 20 commission and shall be approved by the chief administrator *[thereof, provided, however, such ap-  
 21 proval shall not be unreasonably withheld. Such approval may be withdrawn at any time by]* **of the**  
 22 **agency, department, board or commission.** The chief administrator *[and thereupon]* **may not**  
 23 **unreasonably withhold approval of the assistant. If the chief administrator withdraws ap-  
 24 proval,** the Attorney General shall assign replacement counsel to the agency, department, board or  
 25 commission.

26 (8) The Attorney General *[shall]* **may not appear in an action, suit, matter, cause or pro-  
 27 ceeding in a court or before a regulatory body** on behalf of *[any]* **an** officer, *[department,]* agency,  
 28 **department,** board or commission without *[its consent in any action, suit, matter, cause or proceeding  
 29 in any court or before any other federal or state regulatory body]* **the consent of the officer, agency,  
 30 department, board or commission.**

31 (9) The responsibility of establishing policies for each agency, department, board or commission  
 32 shall rest upon the chief administrator *[thereof]* **of the agency, department, board or  
 33 commission.**

34 **SECTION 2. The amendments to ORS 180.060 by section 1 of this 2005 Act apply to**  
 35 **actions commenced before, on or after the effective date of this 2005 Act.**

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