

SENATE AMENDMENTS TO SENATE BILL 324

By COMMITTEE ON JUDICIARY

May 4

1 On page 1 of the printed bill, delete lines 5 through 31 and delete page 2 and insert:

2 **“SECTION 1.** ORS 17.095 is amended to read:

3 “17.095. (1) [No] **A** public body, or officer, employee or agent of a public body, who is a defend-
4 ant in an action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100,
5 [shall] **may not** enter into any settlement or compromise of the action if the settlement or compro-
6 mise requires that the terms **or conditions** of the settlement or compromise be confidential.

7 “[*(2) Notwithstanding subsection (1) of this section, the court may, after an expedited examination*
8 *in chambers, order that terms and conditions of a settlement or compromise of an action be confidential*
9 *if the court determines, by written findings, that specific privacy interests of a private individual out-*
10 *weigh the public’s interest in the terms of the settlement or compromise.*.]

11 **“(2) Notwithstanding subsection (1) of this section:**

12 **“(a) A public body, or officer, employee or agent of a public body, may enter into a**
13 **settlement or compromise that requires the terms or conditions to be confidential if federal**
14 **law requires terms or conditions of that settlement or compromise to be confidential. Only**
15 **terms and conditions that are required to be confidential under federal law may be confi-**
16 **dential in the settlement or compromise.**

17 **“(b) A court may order that the terms or conditions of a settlement or compromise that**
18 **reveal the identity of a person be confidential if:**

19 **“(A) The person whose identity is revealed is a victim of sexual abuse or is under 18 years**
20 **of age; and**

21 **“(B) The court determines, by written findings, that the specific privacy interests of the**
22 **person outweigh the public’s interest in the terms or conditions.**

23 **“(3) Any public body, or officer, employee or agent of a public body, who is a defendant in an**
24 **action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100, shall file**
25 **with the court a full and complete disclosure of the terms and conditions of any settlement or**
26 **compromise of the claims against the public body, its officers, employees or agents. The disclosure**
27 **shall be filed prior to the dismissal of the action.**

28 **“(4) For the purposes of this section:**

29 **“(a) ‘Action’ means a legal proceeding that has been commenced as provided in ORCP 3; and**

30 **“(b) ‘Public body’ has that meaning given in ORS 30.260.**

31 **“SECTION 2.** ORS 36.230 is amended to read:

32 **“36.230. (1) Except as provided in this section, mediation agreements are not confidential if a**
33 **public body is a party to the mediation or if the mediation is one in which a state agency is medi-**
34 **ating a dispute as to which the state agency has regulatory authority.**

35 **“(2) If a public body is a party to a mediation agreement, any provisions of the agreement that**

1 are exempt from disclosure as a public record under ORS 192.410 to 192.505 are confidential.

2 “(3) If a public body is a party to a mediation agreement, and the agreement is subject to the
3 provisions of ORS 17.095, the terms of the agreement are confidential to the extent that those terms
4 are [ordered by a court to be] confidential under ORS 17.095 (2).

5 “(4) If a public body is a party to a mediation agreement arising out of a workplace interper-
6 sonal dispute:

7 “(a) The agreement is confidential if the public body is not a state agency, unless the public
8 body adopts a policy that provides otherwise;

9 “(b) The agreement is confidential if the public body is a state agency only to the extent that
10 the state agency has adopted a rule under ORS 36.224 that so provides; and

11 “(c) Any term of an agreement that requires an expenditure of public funds, other than expen-
12 ditures of \$1,000 or less for employee training, employee counseling or purchases of equipment that
13 remain the property of the public body, may not be made confidential by a rule or policy of a public
14 body.

15 “**SECTION 3. The amendments to ORS 17.095 and 36.230 by sections 1 and 2 of this 2005**
16 **Act apply to actions and mediations commenced on or after the effective date of this 2005**
17 **Act.”.**

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