

Chapter 3

**BILLS**

A bill creates new law, amends or repeals existing law, appropriates money, prescribes fees, transfers functions from one agency to another, provides penalties or takes other action. Although a bill can direct more than one action, it *must* embrace only *one subject*. The formal parts of a bill are the *heading*, *title*, *enacting clause* and *body*.

**FOR EXAMPLE:**

HEADING

**A BILL FOR AN ACT**

TITLE

Relating to Juvenile Corrections Education Program; creating new provisions; amending ORS 420.405; and declaring an emergency.

ENACTING CLAUSE

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

**SECTION 1. Section 2 of this Act is added to and made a part of ORS 327.006 to 327.075.**

**SECTION 2. (1) In order to accomplish the purpose described in ORS 420.405, the State Board of Education shall adopt by rule definitions and procedures to be applied to the computation of the State School Fund allocations where necessary to make students enrolled in the Juvenile Corrections Education Program equivalent to students enrolled in common and union high school districts for purposes of distribution of the fund.**

BODY

**(2) The Juvenile Corrections Education Program shall be entitled to receive from the State School Fund in the 1997-1998 school year and each school year thereafter a special State School Fund grant, consisting of a general purpose grant that is equal to the Juvenile Corrections Education Program ADM multiplied by 2.0 multiplied by the additional per student weight, as defined in ORS 327.013 (7)(a)(A), and further multiplied by the statewide average general purpose grant per ADMw for the school year.**

**SECTION 3. ORS 420.405 is amended to read:**

420.405. It is the purpose of ORS 237.003, 334.195 and this section **and section 2 of this 1997 Act** that children enrolled in the Juvenile Corrections Education Program under the jurisdiction of the [*Children's Services Division of the Department of Human Resources*] **Department of Education** be treated as nearly the same as practicable in the distribution of the State School Fund as children enrolled in common and union high school districts in this state.

**SECTION 4. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1997.**

## BILL TITLES

The title of a bill begins with the phrase “Relating to” and expresses the *subject* of that bill. The title immediately follows the heading “**A BILL FOR AN ACT.**”

### FOR EXAMPLE:

#### **A BILL FOR AN ACT**

Relating to personal income taxes.

The purpose of a title is to give a general indication of the subject to which the bill relates so that anyone reading the title can determine whether the bill addresses a subject of interest. The title serves as a means of identification and *not* as an index or table of contents for the bill. To accomplish this, a title should honestly define the subject within reasonable bounds.

**Constitutional Requirement of One Subject.** Section 20, Article IV of the Oregon Constitution, requires that an Act “embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title” of the bill. Any matter that is not included within the title is void.

**Designation of Subject.** The Oregon Constitution directs that the title be phrased to identify only *one* subject. This requirement avoids the necessity of determining from an enumeration of particulars the single subject selected for legislation. Any additional clauses, such as references to amended or repealed sections, appropriations, references to voting requirements, etc., follow the “relating to” clause and are governed by legislative rules, *not* the Oregon Constitution.

Express the subject in general terms, not in minute detail. Avoid the use of the words “and” and “or” in the title. For example, a title that fulfills the constitutional requirement of one subject relates to “children” not to “boys and girls.”

The subject as expressed in the title may be broader than that actually embraced in the body of the bill as long as the title is not misleading. Note, however, that if the title, “**A BILL FOR AN ACT** Relating to personal income taxes” is used, the bill becomes more susceptible to amendments that span the broad range of matters relating to personal income taxes. Using the title, “**A BILL FOR AN ACT** Relating to personal exemptions under the income tax laws for persons 65 years of age or over” limits the scope of amendments that can be made to the bill.

Remember that *all* amendments to a printed bill must be germane (relate to the subject expressed in “relating to” clause in the title). Also remember that *both houses have long-standing precedents against amending the “relating to” clause in the bill title.*

**References to Amended or Repealed Sections in Title.** It is established legislative practice to list numerically each amended or repealed section of ORS or uncodified Oregon Laws or current session laws (bills) or ORCP in the title, even though these sections may not be organized numerically in the body of the bill. Neither the Oregon Constitution nor the courts require this practice. The Legislative Assembly finds this practice helpful and desires that it continue.

**Special Clauses in Title.** Although the Oregon Constitution does not require any particular feature or clause of an Act to be mentioned in the title, the Legislative Assembly requires that certain special clauses be included in the title. Special clauses are required in the title if the bill appropriates money, limits expenditures, prescribes an effective date, declares an emergency or is being referred to the people.

## FORMS OF TITLES

### **New Legislation Only:**

#### **A BILL FOR AN ACT**

Relating to children.

### **Amending Clause:**

#### **A BILL FOR AN ACT**

Relating to children; amending ORS 418.746.

### **Repealing Clause:**

#### **A BILL FOR AN ACT**

Relating to children; repealing ORS 418.746.

(NOTE: Do not insert the word “and” before a single amending clause in a bill title or before a single repealing clause in a bill title, as illustrated in the examples above.)

**Creating New Provisions.** Titles of bills that amend or repeal existing sections of ORS or Oregon Laws or ORCP *and* also create a new section of law *not otherwise described by a special clause in the title must* include the words “creating new provisions”:

#### **A BILL FOR AN ACT**

Relating to children; creating new provisions; and amending ORS 109.990.

(NOTE: For purposes of the bill title, adding clauses, operative dates and applicable dates are considered to be “creating new provisions.”)

Titles of bills that create new sections without the amendment or repeal of existing sections of ORS or uncodified sections of Oregon Laws or sections of ORCP do not require the words “creating new provisions.” Use special clauses to list all “new” sections that appropriate money, limit expenditures, prescribe an effective date, declare an emergency, or refer an Act to the people.

**Amending or Repealing Sections of Uncodified Oregon Laws or Current Session Laws (Bills) or ORCP.** If a bill amends or repeals a section of an uncodified section of Oregon Laws (previous session bill), a current session law (bill) or a section of ORCP, also include these in the title. Use the word “and” as a separator between the end of the list of one type of amended sections and the beginning of the list of another type of amended sections:

#### **A BILL FOR AN ACT**

Relating to children; creating new provisions; and amending ORS 336.580, 339.147, 339.505, 417.735, 419A.170, 419B.020, 420.017 and 430.705 and section 6, chapter 670, Oregon Laws 1991, and sections 11 and 28, chapter 676, Oregon Laws 1993.

Here is another example of an amending clause:

#### **A BILL FOR AN ACT**

Relating to children; creating new provisions; and amending ORS 336.580, 339.147, 339.505, 417.735, 419A.170, 419B.020, 420.017 and 430.705 and ORCP 7D and 27A.

#### **SPECIAL CLAUSES IN TITLE OF BILL**

**Appropriating Money.** If a bill contains an appropriation, whether a regular biennial appropriation or a continuing appropriation, add “and appropriating money” to the title. *See* “Appropriations” on page 27 of this manual for further explanation.

#### **A BILL FOR AN ACT**

Relating to children; and appropriating money.

**Limiting Expenditures.** If a bill contains a provision limiting expenditures of appropriated or allocated moneys, add “and limiting expenditures” to the title. *See* “Expenditure Limitation” on page 27 of this manual and “Lottery Allocations” on page 28 of this manual for further explanation.

#### **A BILL FOR AN ACT**

Relating to children; and limiting expenditures.

**Emergency Clause.** In the absence of a special provision in the bill, the normal effective date for an Act that will not be referred to the people is the 91st day following the adjournment sine die. If the bill contains an emergency clause that will cause the Act to take effect *earlier than the normal effective date*, add “and declaring an emergency” to the title. *See* “Emergency Clause” on page 26 of this manual for further explanation.

#### **A BILL FOR AN ACT**

Relating to children; and declaring an emergency.

**Special (Delayed) Effective Date.** If a bill contains a clause prescribing a special (delayed) effective date that will cause the entire Act to take effect at a date that is *later* than the normal effective date, add “and prescribing an effective date” to the title. *See* “Special (Delayed) Effective Date” on page 25 of this manual for further explanation.

#### **A BILL FOR AN ACT**

Relating to children; and prescribing an effective date.

**Referendum Clause.** Add “; and providing that this Act shall be referred to the people for their approval or rejection” to the title if the bill contains a referendum clause in which the Legislative Assembly refers a bill to a vote of the people. See “Referendum Clause” on page 29 of this manual for further explanation.

#### **A BILL FOR AN ACT**

Relating to children; and providing that this Act shall be referred to the people for their approval or rejection.

**Order of Provisions and Special Clauses in Title.** The following is an example of the *creating*, *amending* and *repealing* clauses plus various *special* clauses:

#### **A BILL FOR AN ACT**

Relating to children; creating new provisions; amending ORS 137.303, 137.305, 366.524, 417.310, 418.191, 418.193 and 418.199; repealing ORS 419B.020 and section 11, chapter 676, Oregon Laws 1993; appropriating money; limiting expenditures; and declaring an emergency.

### **VOTING REQUIREMENTS NOTED IN TITLE**

When more than a constitutional majority vote is required for certain bills, notice of the required vote is listed in the bill title. The title matter providing this notice appears at the *end* of the title after all other special clauses.

**If a bill has been identified as a revenue raising measure,** its title includes a notice that reads “and providing for revenue raising that requires approval by a three-fifths majority.” **FOR EXAMPLE:**

#### **A BILL FOR AN ACT**

Relating to children; creating new provisions; amending ORS 336.580, 339.147, 339.505, 417.735, 419A.170, 419B.020, 420.017 and 430.705; and providing for revenue raising that requires approval by a three-fifths majority.

**If a bill has been identified as a measure that reduces criminal sentences,** its title includes a notice that reads “and providing for criminal sentence reduction that requires approval by a two-thirds majority.” **FOR EXAMPLE:**

#### **A BILL FOR AN ACT**

Relating to crime; creating new provisions; amending ORS 137.124, 137.700, 137.705 and 137.707; appropriating money; declaring an emergency; and providing for criminal sentence reduction that requires approval by a two-thirds majority.

## ENACTING CLAUSE

The customary enacting clause, formerly required in every bill by the Oregon Constitution, continues to be required by the Legislative Assembly. The enacting clause is flush with the left-hand margin and reads:

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

## BODY OF A BILL

The “body” of a bill is the part of the bill that follows the enacting clause and in which the actual legislating is done. It is where the text of proposed statutes is set forth, amended statutes are set forth in amended form or provision is made for the repeal of statutes. Legislating can be done *only* in the body of a bill, *not* in the title.

A bill can do *any one or more* of the following:

- **Create new law**
- **Amend existing law**
- **Repeal existing law**

but it must embrace only *one* general subject.

**Sectionalization.** Write bills in sections. Use a separate numbered section with an amending clause for each existing section of ORS, uncodified Oregon Laws or ORCP that is being amended by a bill. List all sections of ORS or Oregon Laws or ORCP that are being repealed by the bill numerically in a *separate* numbered section called the repealing clause unless a new section is being enacted expressly in lieu of a repealed section. Be sure to list all amended or repealed sections of ORS, Oregon Laws or ORCP in the title. Place new provisions considered permanent in nature in sections that are separate from sections of new provisions considered temporary in nature.

**Consecutive Numbering.** Consecutively number the sections of a bill with Arabic numerals, with each section number preceded by the word “**SECTION.**” *Do not* assign ORS section numbers to sections containing new statutory provisions; the Legislative Counsel Office assigns statutory section numbers when compiling *Oregon Revised Statutes*.

**Directing Amendments and Repeals to ORS.** When amending or repealing a statute that is already compiled in *Oregon Revised Statutes*, direct the amendment or repeal to the ORS section *not* the session law section. Use the “Comparative Section Tables” in Volume 15 of *Oregon Revised Statutes* to determine whether a session law is codified.

**Number of Statutes Amended or Repealed in Body of Bill.** Any number of statutes relating to *one* general subject may be amended or repealed in the body of a single bill. In general, do not attempt to amend *and* repeal a statute within the body of single bill without first consulting the Legislative Counsel Office.

**Order of Amended Statutes in Body of Bill.** Consecutively arrange sections that amend existing statutes according to their ORS section numbers (from lowest section number to highest section number). Place the section containing the repealing clause near the end of the bill. Each bill is different, and sometimes it is necessary to depart from this practice in order to present the substance of a bill in a logical manner.

## SETTING FORTH AMENDED SECTIONS AT LENGTH

**Generally.** Section 22, Article IV of the Oregon Constitution, provides, in part, that any amended section “shall be set forth, and published at full length.” That is, the entire text of the section must appear in a measure even if only one word is being changed. This means that each proposed change can be viewed in the context in which it is to appear. No matter how small the change being made, and no matter how lengthy the unchanged part of the section being amended, the whole section must be set forth at length.

Do not amend a section by directing that certain words or phrases be inserted or substituted for existing words or phrases, or by stating that certain existing words or phrases be deleted or by specifying that some provision be added to the end of an existing statute.

**Separate Numbered Sections.** Use a separate numbered section for each existing ORS section or each Oregon Laws section or each section of ORCP to be amended by a bill. Each separate numbered section *must* have an amending clause that lists the statutory section being set forth for amending, for example:

**SECTION 1.** ORS 153.610 is amended to read:

153.610. Traffic infractions are classified for the purpose of sentence into the following categories:

- (1) Class A traffic infractions;
- (2) Class B traffic infractions; **and**
- [(3) *Class C traffic infractions; and*]
- [(4)] **(3)** Class D traffic infractions.

**SECTION 2.** ORS 153.615 is amended to read:

153.615. (1) Except as otherwise provided in the statute defining the offense, the penalty for committing a traffic infraction shall be a fine.

(2) A sentence to pay a fine for a traffic infraction shall be a sentence to pay an amount not exceeding:

- (a) \$600 for a Class A traffic infraction.
- (b) \$300 for a Class B traffic infraction.
- [(c) *\$150 for a Class C traffic infraction.*]
- [(d)] **(c)** \$75 for a Class D traffic infraction.

For more examples of amending clauses, *see* page 24 of this manual.

**Subsections or Paragraphs.** A subsection, paragraph or other subordinate part of a section, or anything less than an entire section, *cannot* be deleted or amended without setting forth the entire section as amended. Do not amend a section indirectly by providing that a sentence, paragraph or subsection of the section is “repealed.” Set forth the section at length in amended form.

**WRONG:**

**SECTION 1. Subsection (2) of ORS 999.999 is repealed.**

**RIGHT:**

**SECTION 1.** ORS 999.999 is amended to read:

999.999. [(1)] Cats shall not be permitted to run at large.

[(2) *Dogs shall be permitted to run at large.*]

**Editorial Substitutions and Manifest Clerical Corrections (MCCs).** If the text of an ORS section as set forth for amending in the body of bill seems to differ in editorial detail from the text of a printed ORS section, consult the Legislative Counsel Office. The difference may be the result of an editorial substitution or manifest clerical correction (MCC) that does not require legislative action.

**Exclude Section Headings, Subheadings, Leadlines and Source Notes.** When setting forth amended sections of ORS or Oregon Laws at length, exclude section headings, subheadings, leadlines and source notes that appear in the printed version of ORS. They are *not* part of the law. Section headings, subheadings, leadlines and source notes are intended only as a convenience or aid in using the printed version of the statutes.

**Changes to ORCP Rule Names and Leadlines Require Amendment.** A rule name or a leadline that appears with the text of a section of the Oregon Rules of Civil Procedure *is part of the law* and must be set forth with the text of the ORCP section being amended. All changes to ORCP rule names and leadlines must be made by amendment.

**DELETING OR INSERTING MATERIAL**

When a bill amends an existing section of ORS, uncodified Oregon Laws or ORCP or when a joint resolution amends an existing section of the Oregon Constitution, indicate *all* differences between the original version and the amended version. This includes changes in punctuation, but does *not* include changes in capitalization.

Use [*brackets and italic*] type to indicate that existing material is to be deleted from an amended section. Any text in an existing section that is set forth between brackets or that is inadvertently omitted from the existing section is repealed (deleted). Use **boldfaced type** to indicate *all* new material to be inserted into an amended section. This example illustrates the use of brackets and italic type and boldfaced type:

**SECTION 1.** ORS 123.456 is amended to read:

123.456. Each judge and clerk of the special election shall [*receive for his services \$4 and no more*] **be compensated at a rate of not less than \$4.75 per hour and not less than \$25 per day.**

Substitute underscoring for boldfaced type and plain [brackets] when it is not possible to produce boldfaced or italicized text:

**SECTION 1.** ORS 123.456 is amended to read:

123.456. Each judge and clerk of the special election shall [receive for his services \$4 and no more] be compensated at a rate of not less than \$4.75 per hour and not less than \$25 per day.

**Readability of Deletions and Insertions.** It is the usual practice to delete [*bracket*] existing material and then insert (**boldface**) new material. Sometimes, as when inserting new punctuation marks, large amounts of new material or very little new material, it is easier to read the amended section if the new material is inserted first:

(1) **Infraction** driving while suspended or revoked or in violation of occupational or probationary permit is a Class A **traffic infraction except as otherwise provided in section 3 of this 1997 Act.** [*misdemeanor except that:*]

Readability of text should determine whether the new material is inserted before the old material is deleted or whether the changes involve a series of smaller deletions and insertions. For example, this series of smaller insertions and deletions clearly and correctly shows that the following subsection has been renumbered:

[*(11)(a)*] **(4)(a)** [*Suspension or revocation*] **Disciplinary action by another state** of an emergency medical technician certificate [*issued by another state*]:

The following example shows how larger deletions and insertions make the renumbering of the subsection less apparent and is therefore incorrect:

[*(11)(a) Suspension or revocation*] **(4)(a)** **Disciplinary action by another state** of an emergency medical technician certificate [*issued by another state*]:

Do not delete [*bracket*] or insert (**boldface**) single letters in a word. Instead delete [*bracket*] the entire word to be changed and insert (**boldface**) the new word:

(1) “[*Effected*] **Affected** area” means an area subject to an order of the commission issued under ORS 454.305.

## NEW SECTIONS

Bills create new law if existing statutes *cannot* be amended or repealed to accomplish a purpose. Sections containing new provisions do *not* have an amending clause or an ORS section number.

In a *printed* bill, the text of a new section appears in **boldfaced** type, for example:

**SECTION 3.** (1) **A person or agency submitting a report to the Department of Transportation under sections 1 and 2 of this 1997 Act may not release the report or information from the report to any person who intends to use the information for commercial purposes.**

(2) **As used in this section, “commercial purposes” has the meaning given in ORS 802.224.**

Special clauses and provisions that appear in **boldfaced type** in the text of a bill include adding clauses, repealing clauses, repealing and enacting in lieu of clauses, appropriation provisions, expenditure limitations, lottery allocations, disclaimers, applicable dates, operative dates, effective dates, emergency clauses and referendum clauses.

**Boldfaced type** is also used to indicate new constitutional sections as set forth in **PARAGRAPH 1.** of a joint resolution that proposes amendments to the Oregon Constitution. The referendum clause, as set forth in **PARAGRAPH 2.,** also appears in **boldfaced type.** See chapter 5, “Amending the Oregon Constitution,” on pages 41 to 46 of this manual for further explanation and examples.

## WRITING NEW SECTIONS

When writing a new section of law, do not break the text of a section or any part thereof into paragraphed units such as subsections or paragraphs unless there are two or more paragraphed units of equal rank.

### Designation of paragraphed units by rank:

- (1) - subsection
- (a) - paragraph
- (A) - subparagraph
- (i), (ii) - sub-subparagraph

### Follow these rules when numbering subsections and paragraphs:

- Use Arabic numerals enclosed in parentheses to designate subsections. A section can consist of two or more subsections of primary rank, for example:

**SECTION 1. (1) Trees are exempt.**  
**(2) Shrubs are not exempt.**

- A section can also consist of two or more subsections of secondary rank, for example:

**SECTION 1. As used in sections 1 to 7 of this Act:**  
**(1) “Explosives” means dynamite.**  
**(2) “Seller” means any person.**

- Use lowercase letters in parentheses to designate paragraphs, but use a capital letter “(L)” to designate the paragraph between “(k)” and “(m).”
- Avoid the use of subparagraphs and sub-subparagraphs. If further subdivision cannot be avoided, use capital letters in parentheses “(A)” for subparagraphs and small Roman numerals in parentheses “(i), (ii)” for sub-subparagraphs.
- Do not use numbers or letters in parentheses to separate clauses *within* a subsection or paragraph. If such separation seems necessary, the clauses may be of sufficient importance to be handled as separate paragraphs or subparagraphs.

## UNIT AND SECTION CAPTIONS

Unit and section captions, also known as headings, subheadings and leadlines, may be used to make a lengthy or complex bill more understandable. If using unit and section captions, follow this form:

**ARTICLE 8. SPEED RESTRICTIONS**  
**(Rules and Limitations)**  
**SECTION 75. Basic speed rule. (Insert Text)**  
**SECTION 76. Special speed limits set by commission. (Insert Text)**

When unit and section captions are used, insert near the end of the bill a section that reads substantially as follows:

**SECTION 31. The unit and section captions used in this Act are provided only for convenience in locating provisions of this Act and do not become part of the statutory law of this state or express any legislative intent in the enactment of this Act.**

(NOTE: This provision is not necessary in a bill that amends or creates sections of ORCP because leadlines used in ORCP are considered to be part of the law.)

### **ADDING CLAUSE**

If definitions, penalties or similar general provisions of an ORS chapter or series of sections are to apply to one or more new sections being created, add the new material to the appropriate ORS chapter or series by specifying that it is to be “added to and made a part of” that chapter or series. Before doing so, however, study carefully the effect of other statutes on the series selected. For instance, while the definitions may be helpful, the penalties for that series may not be appropriate. Do not use the “adding” technique as a means of editorially directing where the new material is to be compiled in ORS because other new material may affect the placement of a particular section in the statutes.

When adding new sections to existing ORS chapters or series, include in the bill an “adding” clause for the section or sections so added but do *not* state in the title or the body of the bill that the ORS chapter or series is being “amended by the addition.”

**If only one section is being added,** follow this form for the “adding” clause:

**SECTION 1. Section 2 of this Act is added to and made a part of ORS 483.502 to 483.535.**  
**SECTION 2. (Insert Text)**

**Only one “adding” clause is necessary** even if two or more sections are being added to an ORS chapter or series:

**SECTION 1. Sections 2 and 3 of this Act are added to and made a part of ORS chapter 483.**  
**SECTION 2. (Insert Text)**  
**SECTION 3. (Insert Text)**

Here is an example of adding a series of new sections to an ORS chapter or series:

**SECTION 1. Sections 2 to 5 of this Act are added to and made a part of ORS chapter 483.**  
**SECTION 2. (Insert Text)**  
**SECTION 3. (Insert Text)**  
**SECTION 4. (Insert Text)**  
**SECTION 5. (Insert Text)**

## AMENDING CLAUSE

Use a separate amending clause within the body of a bill for each existing section of ORS, section of uncodified Oregon Laws or section of ORCP that is being amended. It is not sufficient to state in the title that a section is being amended. The body of the bill also must state that the section is amended. The amending clause immediately follows the section number for the section of the bill in which the amendment is provided.

### FOR EXAMPLE:

**SECTION 1.** ORS 171.030 is amended to read:  
171.030. (Insert Text)

## REPEALING CLAUSE

If the bill repeals existing statutes, list all of the ORS sections being repealed in the body of the bill *and* in the title. It is not sufficient to list the repealed sections only in the title. Note that the section containing the repealing clause is usually placed near the end of the bill. Here is one example of a repealing clause:

**SECTION 15.** ORS 171.030 and 171.032 are repealed.

**Do not direct repeals to a series of ORS sections.** List *each* repealed section separately in the repealing clause. **FOR EXAMPLE:**

**SECTION 48.** ORS 548.610, 548.615, 548.620, 548.625, 548.630, 548.635, 548.640, 548.645, 548.650, 548.655, 548.660, 548.665, 548.670 and 548.675 are repealed.

## REPEAL AND ENACTMENT IN LIEU

If the proposed changes to an amended statute are so numerous that the use of [*brackets and italic*] type and **boldfaced** type may be too confusing or if the new material totally revises the old, it may be necessary to use a different method of showing the changes. One method of retaining the effect of the old, including applicable court decisions and the relationship with existing law, is to enact the new “in lieu” of the old. The new ORS section number will be substituted editorially in ORS for the old ORS number without having to amend each section that cites it. Be sure that the enactment is in fact in lieu. Do not, for example, repeal a penalty and enact in lieu thereof a procedure. The case law would not fit and the number substitutions would produce absurd references.

(NOTE: For purposes of the bill title, list the repealed section in the repealing clause of the title and list the section being “enacted in lieu thereof” under “creating new provisions.”)

**If enacting one new section in lieu of one repealed section,** use the following form:

**SECTION 1.** ORS 483.241 is repealed and section 2 of this Act is enacted  
in lieu thereof.  
**SECTION 2.** (Insert Text)

If enacting more than one new section in lieu of the repealed section, use the following form:

**SECTION 1. ORS 483.210 is repealed and sections 2 and 3 of this Act are enacted in lieu thereof.**

**SECTION 2. (Insert Text)**

**SECTION 3. (Insert Text)**

Never enact several new statutes in lieu of several repealed sections because it is never clear whether one or all of the new sections should be substituted for one or all of the repealed sections.

## **NORMAL EFFECTIVE DATE**

The normal effective date of an Act that is not referred to the people is the 91st day after adjournment sine die. See section 28, Article IV, Oregon Constitution. Begin counting on the first full day after the end of session and count 90 full days. The Act will take effect the following day. In 1995, the Sixty-eighth Legislative Assembly adjourned June 10. The 90-day countdown began June 11 and ended September 8. In the absence of special provisions such as an emergency clause or a special (delayed) effective date, Acts passed that session took effect on the 91st day, September 9.

The question of effective date is important in many bills because of issues related to fiscal years, license years, tax years, election dates and similar considerations.

When referring to the “effective date of this Act” be sure there is only *one* effective date for the entire bill. If there is a date that applies to only certain sections of the bill, the operative date of these sections must be clarified.

## **SPECIAL (DELAYED) EFFECTIVE DATE**

When a bill prescribes a special (delayed) effective date that will delay the effective date of that Act until *after* the normal effective date, place the section containing the effective date clause at the end of the bill:

**SECTION . This Act takes effect on January 1, 19 \_\_\_\_.**

(NOTE: List a section containing a special (delayed) effective date in the bill title as “prescribing an effective date.”)

## **OPERATIVE DATE**

An operative date is usually used to distinguish between actions that *are* authorized on and after the effective date of an Act and actions that *are not* authorized until the operative date. The use of an operative date can delay the operation of *all* or *part* of a bill. Usually, an entire Act becomes effective – allowing administrative machinery to be set up – and only part of the Act is subject to operational delay.

(NOTE: List a section containing an operative date in the bill title as “creating new provisions.”)

An example illustrating a common use of an operative date is:

**SECTION 2.** The Director of the Department of \_\_\_\_\_ may be appointed before the operative date of this Act, and may take any action before the operative date of this Act that is necessary to enable the director to exercise, on and after the operative date of this Act, all the duties, functions and powers conferred on the director by this Act.

...  
**SECTION 39.** Except as provided in section 2 of this Act, this Act does not become operative until July 1, 1998.

## EMERGENCY CLAUSE

An emergency clause (“E-clause”) must be used if an Act takes effect *earlier* than the normal effective date. If used, the emergency clause must apply to the *entire* bill. Do not make the emergency clause applicable to only *part* of the bill. An emergency clause contains *no* other provisions. List the emergency clause separately in the bill title as “declaring an emergency.”

The emergency clause has the effect of *advancing* the effective date of the Act thus *preventing* the exercise of referendum power. Because of this effect, section 15a, Article V of the Oregon Constitution, authorizes the Governor to veto an emergency clause without affecting the rest of the bill, and section 1a, Article IX of the Oregon Constitution, prohibits the Legislative Assembly from declaring an emergency in an Act “regulating taxation or exemption.”

An emergency clause for a bill to take effect on its passage follows this form:

**SECTION .** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

(NOTE: When the words “on its passage” are used, the bill takes effect when the Governor signs it, *not* “on its passage” by both houses of the Legislative Assembly.)

An emergency clause for a bill that takes effect on a specific date follows this form:

**SECTION .** This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect (month) (day), 1997.

(NOTE: When the “July 1” date is used and the Governor signs the bill *after* July 1, the effective date is the date the Governor signed it.)

## APPROPRIATIONS

Moneys cannot be drawn from the State Treasury except to carry out an appropriation made by law. *See* section 4, Article IX of the Oregon Constitution. This means that appropriations can be made only by bills, not by resolutions. This also means that a bill creating a new agency or launching a new activity also may appropriate moneys to pay expenses of the new agency or to fund the new activity. The appropriation may be made by a separate appropriation bill.

Section 7, Article IX of the Oregon Constitution, requires that laws making appropriations contain no other subject. Appropriations that are made within the text of a bill must relate to the subject of the bill.

### APPROPRIATION PROVISION

If a bill appropriates money, designate:

- (1) The officer or agency to which the appropriation is made;
- (2) The period to which the appropriation is to apply;
- (3) The source of the appropriation;
- (4) The amount of the appropriation; and
- (5) The purpose for which the money is appropriated.

#### FOR EXAMPLE:

**SECTION .** There is appropriated to the Department of Education,<sup>(1)</sup> for the biennium beginning July 1, 19\_\_\_\_,<sup>(2)</sup> out of the General Fund,<sup>(3)</sup> the amount of \$\_\_\_\_\_<sup>(4)</sup> for the purpose of carrying out the provisions of this Act.<sup>(5)</sup>

(NOTE: Bills that contain appropriations for the next biennium (beginning July 1 of odd-numbered years) require an emergency clause that allows funds to be available for expenditure *before* the normal effective date. An emergency clause is necessary because the normal effective date *often* does not occur until *after* the beginning of the fiscal biennium.)

### EXPENDITURE LIMITATION

If a bill limits the expenditures of an agency from moneys it receives or collects, designate:

**SECTION .** Notwithstanding any other law, the amount of \$\_\_\_\_\_ is established for the biennium beginning July 1, 19\_\_, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts, excluding federal funds, collected or received by the (agency).

Use a *separate* section to limit “payment of expenses from federal funds collected or received” by an agency:

**SECTION .** Notwithstanding any other law, the amount of \$\_\_\_\_\_ is established for the biennium beginning July 1, 19\_\_, as the maximum limit for payment of expenses for (purpose) from federal funds collected or received by the (agency).

## LOTTERY ALLOCATIONS

Revenues from lottery sales are transferred from the Oregon State Lottery Commission to the Administrative Services Economic Development Fund. Lottery proceeds are then allocated to various agencies to finance specific projects. Each allocation consists of two subsections. The first subsection states to whom the allocation is made; the second subsection establishes the amount of the allocation as a limitation on agency expenditures and often states the purpose or project for which the money is to be used. **FOR EXAMPLE:**

**SECTION \_\_\_\_.** (1) There is allocated to the (agency) from the Administrative Services Economic Development Fund the amount identified in subsection (2) of this section.

(2) In addition to and notwithstanding any other law, the amount of \$ \_\_\_\_ is established for the biennium beginning July 1, 1997, as the maximum limit for payment of expenses by the (agency) from the Administrative Services Economic Development Fund for (purpose).

(NOTE: This section has two designations for purposes of the bill title. Designate subsection (1), which allocates the funds, as “creating new provisions.” Designate subsection (2) as “limiting expenditures.”)

## CRIMINAL PENALTIES

If the intent of a bill is to prohibit certain actions and create criminal penalties for offenses, drafters refer to ORS chapters 161 to 169 to determine the classification of the offense (violation, misdemeanor, felony) and the penalty for that class. Use of this classification system allows for the standardization of penalties. To make penalties in existing statutes applicable to new prohibitions, add the new sections to and make them a part of the appropriate existing ORS chapter or series. When drafting a criminal statute of the type compiled in ORS chapters 161 to 169, do not split the prohibition from the penalty because both will be compiled as one section. **FOR EXAMPLE:**

**SECTION \_\_\_\_.** (1) A person commits the crime of \_\_\_\_\_ if the person initiates or circulates a report or warning of an impending bombing or other crime or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly or facility of public transport, or to cause public inconvenience or alarm.

(2) \_\_\_\_\_ is a Class A misdemeanor.

## CIVIL PENALTIES

A civil penalty is a penalty that may be imposed and collected by the enforcing agency without filing an action in court. ORS 183.090 establishes a standardized procedure for the imposition of civil penalties. If the intent of the bill is to create a civil penalty, refer to “civil penalties” in the body of the bill *not* to “fines,” “monetary penalties,” etc. If this procedure is to apply, insert in the bill a section that substantially reads as follows:

**SECTION \_\_\_\_.** Civil penalties under section \_\_\_\_ of this Act shall be imposed in the manner provided by ORS 183.090.

A bill should not authorize imposition of civil penalties “for violations of the provisions of this Act.” Instead, determine which sections or subsections should be subject to the civil penalty and specify those provisions in the section that authorizes the civil penalty. Policy issues to be determined by legislative committees concerning civil penalties include: The amount of the penalties to be imposed; whether an agency or the Legislative Assembly determines the amount of the penalty; what violations subject a person to the penalty; how the penalty may be remitted or reduced; the disposition of the penalties collected; and whether the civil penalty is the only remedy.

## **REFERENDUM CLAUSE**

The Legislative Assembly may cause an Act to be referred to the people for their approval or rejection. An Act that the Legislative Assembly refers to the people *must* contain a referendum clause. The referred Act will be voted upon at the next regular general election, pursuant to section 1, Article IV of the Oregon Constitution, unless the Legislative Assembly orders a special election. A special election may be held on the same date as the next biennial primary election. Provision for publication of the Act in the voters’ pamphlet is made in ORS chapter 251.

Here is one example of a referendum clause used to submit an Act to the people at the next regular general election:

**SECTION . This Act shall be submitted to the people for their approval or rejection at the next regular general election held throughout this state.**

Here is an example of a referendum clause used to submit an Act to the people at the next biennial primary election:

**SECTION . This Act shall be submitted to the people for their approval or rejection at a special election held throughout this state on the same date as the next biennial primary election.**

Here is the form for a referendum clause needed to submit an Act to the people at a special election to be held on a date other than the next biennial primary election:

**SECTION . This Act shall be submitted to the people for their approval or rejection at a special election held throughout this state on (month) (day), (year).**

**Referral of an Act to Certain Electors.** The Legislative Assembly also may refer an Act to certain electors who live within one or more counties or special districts. This example from chapter 565, Oregon Laws 1987, shows how reference of an Act renaming the Port of Coos Bay to the Oregon International Port of Coos Bay was accomplished:

**SECTION . This Act shall be referred to the electors of the port district organized under ORS chapter 777 and known as the Port of Coos Bay for their approval or rejection at a special election held in 1987 on the earliest date specified in ORS 255.345 that is more than 40 days after the date on which the regular session of the Sixty-fourth Legislative Assembly adjourns sine die.**

**SECTION . If approved by the electors of the Port of Coos Bay at the special election held for that purpose under section 19 of this Act, this Act becomes operative on January 1, 1988.**

## TEMPORARY PROVISIONS

In some cases it is necessary to provide for special situations in the transitional period from existing law to the new law. Place these and other provisions of a temporary nature in separate sections. One example of a temporary provision is the initial terms of office for members of newly created boards or committees.

Temporary provisions should not be placed in the *same* section as provisions that are permanent and will be codified in ORS. If a section contains *both* temporary and permanent provisions, it may be impossible for ORS editors to separate the provisions and the code — which is to be “general, public and permanent in nature” — will contain material that will become obsolete.

## REPORTS TO LEGISLATIVE ASSEMBLY

In 1991, the Legislative Assembly enacted ORS 192.245, which requires that the President of the Senate and the Speaker of the House of Representatives each receive a copy of each written report to the Legislative Assembly. The President and Speaker, in turn, will refer the reports to the appropriate committees. If an agency, commission, committee or task force is required to submit a report to the Legislative Assembly, it may be appropriate to substantially follow this form:

**SECTION 16. Not later than the first day of each regular session of the Legislative Assembly, the (agency or other entity) shall submit a comprehensive report to the Governor and to the Legislative Assembly as provided in ORS 192.245.**

## GENERAL REPEAL PROVISION

Do not use a general repeal providing that “all laws and parts of laws in conflict with this Act are repealed.” This repeal by implication creates uncertainty and confusion regarding exactly which statutes are affected.

## SEVERABILITY AND NONSEVERABILITY PROVISIONS

Do not include a “severability” clause providing that if any part of the bill is held unconstitutional the remainder shall not be affected. The courts will follow this principle without such a clause. *See* ORS 174.040.

But, if the intention is that the entire bill be declared invalid if any part of it is held unconstitutional, use the following form:

**SECTION . It is the intent of the Legislative Assembly, in enacting this Act, that each part of the Act be considered to be essentially and inseparably connected with and dependent upon every other part. The Legislative Assembly does not intend that any part of this Act be the law if any other part is held unconstitutional.**

In the case of an amendatory Act, add the following sentence to the provision above:

**If one of the sections of this Act is declared unconstitutional, it is the intent of the Legislative Assembly that the provisions of (list the ORS or session law sections amended in the Act) remain in effect the same as if this Act had not been enacted.**

## SUNSET PROVISION

Sunset is the popular term used to describe the process whereby various provisions of a bill are made temporary by applying to those provisions a repealer at some future date. The sunset repeal date should be *either* December 31 following the end of a legislative session (odd-numbered years) *or* June 30 in the year following the end of a legislative session (even-numbered years). Exceptions to this rule will be made only if the provisions to be sunsetted are so dependent on the fiscal year and the biennial legislative cycle that a June 30 sunset date in the next odd-numbered year is imperative.

Here is an example of a sunset provision:

**SECTION 21. Sections 1 to 20 of this Act are repealed December 31, 1999.**

In applying a sunset repeal to provisions of a bill that amend law that has been permanently codified, *do not* sunset those amendments. Instead, create a separate temporary provision that contains the desired language that can then be repealed or become inoperative at the appropriate time. This temporary provision will *not* be codified.

**FOR EXAMPLE:**

**SECTION 1. Notwithstanding ORS 123.456, during calendar year 1998, the fee for a license is \$100.**

## NOTES