

House Bill 4140

Sponsored by Representative NERON, Senator GELSER BLOUIN; Representative NOBLE, Senators PATTERSON, PROZANSKI (Presession filed.)

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**.

Expands duties of Oregon Government Ethics Commission to conduct investigations, make findings and impose penalties for violations of public meetings law. Authorizes any person to file complaint with commission alleging that meetings of governing body were not in compliance with public meetings law.

Directs commission to develop and present training sessions to governing bodies and public officials on public meetings law and best practices for compliance with law. Requires governing bodies and specified public officials to attend training sessions.

Makes training requirements operative January 1, 2023.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to public meetings; creating new provisions; amending ORS 192.680, 192.685, 244.255,
3 244.260, 244.270, 244.290 and 244.350; and prescribing an effective date.

4 Whereas transparency in government proceedings is a cornerstone of representative,
5 participatory democracy in this state; and

6 Whereas the Oregon public meetings law, ORS 192.610 to 192.690, was enacted almost 50 years
7 ago to ensure that Oregonians had complete access to decision-making and the reasons underlying
8 decisions by government bodies; and

9 Whereas over the decades there have been instances of governing bodies and public officials
10 being out of compliance with the public meetings law; and

11 Whereas Oregonians who seek to enforce the public meetings law must generally seek enforce-
12 ment in court, which often is a significant barrier that is out of reach to many; and

13 Whereas the Oregon Government Ethics Commission is currently charged with enforcing the
14 ethics laws and a portion of the public meetings law that concerns executive sessions; and

15 Whereas the Oregon Government Ethics Commission has approached enforcement of the laws
16 over which it has jurisdiction with a primary emphasis on education and training, while reserving
17 imposition of civil penalties and other more rigorous enforcement to egregious or repeated vio-
18 lations; and

19 Whereas the Oregon Government Ethics Commission is well-positioned to take on an expanded
20 role in enforcement of the public meetings law with an emphasis on education and training while
21 reserving stronger enforcement measures for public meetings law violations that constitute inten-
22 tional disregard of the law or willful misconduct; now, therefore,

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

24 **SECTION 1.** ORS 192.685 is amended to read:

25 192.685. (1) Notwithstanding ORS 192.680, complaints of violations of [*ORS 192.660*] **any pro-**
26 **vision of ORS 192.610 to 192.690** alleged to have been committed by public officials may be made
27 to the Oregon Government Ethics Commission for review and investigation as provided by ORS

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.

1 244.260 and for possible imposition of civil penalties as provided by ORS 244.350.

2 (2) The commission may interview witnesses, review minutes and other records and [may] obtain
 3 and consider any other information pertaining to [executive sessions] **meetings** of the governing body
 4 of a public body for purposes of determining whether a violation of ORS [192.660] **192.610 to 192.690**
 5 occurred. Information related to an executive session conducted for a purpose authorized by ORS
 6 192.660 shall be made available to the Oregon Government Ethics Commission for its investigation
 7 but shall be excluded from public disclosure.

8 (3) If the commission chooses not to pursue a complaint of a violation brought under subsection
 9 (1) of this section at any time before conclusion of a contested case hearing, the public official
 10 against whom the complaint was brought may be entitled to reimbursement of reasonable costs and
 11 attorney fees by the public body to which the official's governing body has authority to make rec-
 12 ommendations or for which the official's governing body has authority to make decisions.

13 **SECTION 2.** ORS 244.260 is amended to read:

14 244.260. (1)(a) Any person may file with the Oregon Government Ethics Commission a signed
 15 **or electronically signed** written complaint alleging that there has been a violation of **either**:

16 (A) Any provision of this chapter or of any rule adopted by the commission under this chapter.
 17 The complaint shall state the person's reason for believing that a violation occurred and include any
 18 evidence relating to the alleged violation.

19 (B) **ORS 192.610 to 192.690. The complaint shall state the particulars of meetings of a**
 20 **governing body that were not in compliance with ORS 192.610 to 192.690 and shall state the**
 21 **person's reason for believing that a violation occurred. The person shall include any evidence**
 22 **relating to the alleged violation with the complaint.**

23 (b) If at any time the commission has reason to believe that there has been a violation of a
 24 provision of this chapter or of a rule adopted by the commission under this chapter, the commission
 25 may proceed under this section on its own motion as if the commission had received a complaint.

26 (2)(a) Not later than two business days after receiving a complaint under this section, the com-
 27 mission shall notify the person who is the subject of the complaint.

28 (b) Before approving a motion to proceed under this section without a complaint, the commission
 29 shall provide notice to the person believed to have committed the violation of the time and place
 30 of the hearing at which the motion will be discussed. If the commission decides to proceed on its
 31 own motion, the commission shall give notice to the person not later than two business days after
 32 the motion is approved.

33 (c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of
 34 this subsection. The notice must describe the nature of the alleged violation. The notice must in-
 35 clude copies of all materials submitted with a complaint. If the commission will consider a motion
 36 to proceed without a complaint, the notice must provide copies of all materials that the commission
 37 will consider at the hearing on the motion.

38 (d) Information that the commission considers before approving a motion to proceed on its own
 39 motion under this section and any correspondence regarding the motion or potential violation is
 40 confidential. The executive director of the commission and the commission members and staff may
 41 not make any public comment or publicly disclose any materials relating to the motion pending the
 42 commission's approval to proceed. A person who intentionally violates this paragraph is subject to
 43 a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as a result of a violation
 44 of this paragraph by the executive director or a member of the commission or its staff may file a
 45 petition in a court of competent jurisdiction in the county in which the petitioner resides in order

1 to enforce the civil penalty provided in this paragraph.

2 (3) After the commission receives a complaint or decides to proceed on its own motion, the
 3 executive director of the commission shall undertake action in the Preliminary Review Phase to
 4 determine whether there is cause to undertake an investigation. If the person who is the subject
 5 of the action is a member of the Legislative Assembly, the executive director shall determine
 6 whether the alleged violation involves conduct protected by Article IV, section 9, of the Oregon
 7 Constitution.

8 (4)(a) The Preliminary Review Phase begins on the date the complaint is filed or the date the
 9 commission decides to proceed on its own motion and ends on the date the executive director com-
 10 pletes the statement of the facts determined during the phase under paragraph (d) of this subsection.
 11 The Preliminary Review Phase may not exceed 60 days unless a complaint is filed under this section
 12 with respect to a person who is a candidate for elective public office, the complaint is filed within
 13 61 days before the date of an election at which the person is a candidate for nomination or election
 14 and a delay is requested in writing by the candidate. If the candidate makes a request under this
 15 paragraph, the Preliminary Review Phase must be completed not later than 60 days after the date
 16 of the election.

17 (b) During the Preliminary Review Phase, the executive director of the commission may seek,
 18 solicit or otherwise obtain any books, papers, records, memoranda or other additional information,
 19 administer oaths and take depositions necessary to determine whether there is cause to undertake
 20 an investigation or whether the alleged violation involves conduct protected by Article IV, section
 21 9, of the Oregon Constitution.

22 (c) The Preliminary Review Phase is confidential. The executive director of the commission and
 23 any commission members and staff may acknowledge receipt of a complaint but may not make any
 24 public comment or publicly disclose any materials relating to a case during the Preliminary Review
 25 Phase. A person who intentionally violates this paragraph is subject to a civil penalty in an amount
 26 not to exceed \$1,000. Any person aggrieved as a result of a violation of this paragraph by the
 27 executive director or a member of the commission or its staff may file a petition in a court of com-
 28 petent jurisdiction in the county in which the petitioner resides in order to enforce the civil penalty
 29 provided in this paragraph.

30 (d)(A) At the end of the Preliminary Review Phase, the executive director of the commission
 31 shall prepare a statement of the facts determined during the phase, including appropriate legal ci-
 32 tations and relevant authorities. Before presentation to the commission, the executive director's
 33 statement shall be reviewed by legal counsel to the commission.

34 (B) Following the conclusion of the Preliminary Review Phase, the executive director of the
 35 commission shall attend an executive session of the commission where the executive director shall
 36 present the statement of the facts and summarize the results of the Preliminary Review Phase to the
 37 commission and recommend to the commission whether there is cause to undertake an investigation
 38 or whether the commission should instead dismiss the complaint or rescind its motion.

39 (C) At the executive session, the commission shall consider the recommendation of the executive
 40 director and make the final determination as to whether there is cause to undertake an investigation
 41 or whether the commission should instead dismiss the complaint or rescind its motion.

42 (D) All case related materials and proceedings shall be open to the public after the commission
 43 makes a finding of cause to undertake an investigation, dismisses a complaint or rescinds a motion.

44 (e) The time limit imposed in this subsection and the commission's inquiry are suspended if a
 45 court has enjoined the executive director or the commission from continuing the inquiry.

1 (5)(a) If the commission determines that there is not cause to undertake an investigation or that
 2 the alleged violation of this chapter involves conduct protected by Article IV, section 9, of the
 3 Oregon Constitution, the commission shall dismiss the complaint or rescind its motion and formally
 4 enter the dismissal or rescission in its records. If the commission considers the recommendation of
 5 the executive director in an executive session but the commission does not affirmatively vote to
 6 undertake an investigation, dismiss the complaint or rescind its motion, the nonaction taken by the
 7 commission shall be considered a dismissal of the complaint or a rescission of its motion. The com-
 8 mission shall notify the person who is the subject of action under this section of the dismissal or
 9 rescission. After dismissal or rescission, the commission may not take further action involving the
 10 person unless a new and different complaint is filed or action on the commission's own motion is
 11 undertaken based on different conduct.

12 (b) If the commission makes a finding of cause to undertake an investigation, the commission
 13 shall undertake action in the Investigatory Phase. The commission shall notify the person who is the
 14 subject of the investigation, identify the issues to be examined and confine the investigation to those
 15 issues. If the commission finds reason to expand the investigation, the commission shall move to do
 16 so, record in its minutes the issues to be examined before expanding the scope of its investigation
 17 and formally notify the complainant, if any, and the person who is the subject of the investigation
 18 of the expansion and the scope of the investigation.

19 (6)(a) The Investigatory Phase begins on the date the commission makes a finding of cause to
 20 undertake an investigation and ends on the date the commission dismisses the complaint, rescinds
 21 its own motion, issues a settlement order, moves to commence a contested case proceeding or takes
 22 other action justified by the findings. Except as provided in this subsection, the Investigatory Phase
 23 may not exceed 180 days unless a delay is stipulated to by both the person who is the subject of
 24 action under this section and the commission with the commission reserving a portion of the delay
 25 period to complete its actions.

26 (b) During the Investigatory Phase, the commission may seek any additional information, ad-
 27 minister oaths, take depositions and issue subpoenas to compel attendance of witnesses and the
 28 production of books, papers, records, memoranda or other information necessary to complete the
 29 investigation. If any person fails to comply with any subpoena issued under this paragraph or refuses
 30 to testify on any matters on which the person may be lawfully interrogated, the commission shall
 31 follow the procedure described in ORS 183.440 to compel compliance.

32 (c) The time limit imposed in this subsection and the commission's investigation:

33 (A) May be suspended if there is a pending criminal investigation that relates to the issues
 34 arising out of the underlying facts or conduct at issue in the matter before the commission and the
 35 commission determines that it cannot adequately complete its investigation until the pending crimi-
 36 nal investigation is complete; *[or]*

37 **(B) May be suspended if a suit is commenced under ORS 192.680 concerning the same**
 38 **meetings of a governing body that are the subject of the investigation by the commission,**
 39 **until a final adjudication of the suit has been made; or**

40 *[(B)]* (C) Are suspended if a court has enjoined the commission from continuing its investigation.

41 (d) At the end of the Investigatory Phase, the commission shall take action by order. The action
 42 may include:

43 (A) Dismissal, with or without comment;

44 (B) Continuation of the investigation for a period not to exceed 30 days for the purpose of ad-
 45 ditional fact-finding;

- 1 (C) Moving to a contested case proceeding;
- 2 (D) Entering into a negotiated settlement; or
- 3 (E) Taking other appropriate action if justified by the findings.
- 4 (e) The commission may move to a contested case proceeding if the commission determines that
- 5 the information presented to the commission is sufficient to make a preliminary finding of:
- 6 (A) A violation of any provision of this chapter or of any rule adopted by the commission under
- 7 this chapter; **or**
- 8 **(B) A violation of any provision of ORS 192.610 to 192.690.**
- 9 (7) A person conducting any inquiry or investigation under this section shall:
- 10 (a) Conduct the inquiry or investigation in an impartial and objective manner; and
- 11 (b) Provide to the executive director or the commission all favorable and unfavorable informa-
- 12 tion the person collects.
- 13 (8) The commission shall report the findings of any inquiry or investigation in an impartial
- 14 manner. The commission shall report both favorable and unfavorable findings and shall make the
- 15 findings available to:
- 16 (a) The person who is the subject of the inquiry or investigation;
- 17 (b) The appointing authority, if any;
- 18 (c) The Attorney General, if the findings relate to a state public official;
- 19 (d) The appropriate district attorney, if the findings relate to a local public official; *[and]*
- 20 (e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge; **and**
- 21 **(f) The governing body of a public body, if the inquiry or investigation concerns an alleged**
- 22 **violation of ORS 192.610 to 192.690 and the person who is the subject of the inquiry or in-**
- 23 **vestigation is a member of that governing body.**
- 24 (9) Hearings conducted under this chapter must be held before an administrative law judge as-
- 25 signed from the Office of Administrative Hearings established under ORS 183.605. The procedure
- 26 shall be that for a contested case under ORS chapter 183.
- 27 (10) The Oregon Government Ethics Commission may not inquire into or investigate any conduct
- 28 that occurred more than four years before a complaint is filed or a motion is approved under sub-
- 29 section (1) of this section.
- 30 (11) This section does not prevent the commission and the person alleged to have violated any
- 31 provision of this chapter or any rule adopted by the commission under this chapter from stipulating
- 32 to a finding of fact concerning the violation and consenting to an appropriate penalty. The com-
- 33 mission shall enter an order based on the stipulation and consent.
- 34 (12) At any time during proceedings conducted under this section, the commission may enter
- 35 into a negotiated settlement with the person who is the subject of action under this section.
- 36 (13) As used in this section:
- 37 (a) "Cause" means that there is a substantial, objective basis for believing that an offense or
- 38 violation may have been committed and the person who is the subject of an inquiry may have com-
- 39 mitted the offense or violation.
- 40 **(b) "Governing body" has the meaning given that term in ORS 192.610.**
- 41 *[(b)]* (c) "Pending" means that a prosecuting attorney is either actively investigating the factual
- 42 basis of the alleged criminal conduct, is preparing to seek or is seeking an accusatory instrument,
- 43 has obtained an accusatory instrument and is proceeding to trial or is in trial or in the process of
- 44 negotiating a plea.
- 45 **SECTION 3.** ORS 192.680 is amended to read:

1 192.680. (1) A decision made by a governing body of a public body in violation of ORS 192.610
 2 to 192.690 shall be voidable. The decision shall not be voided if the governing body of the public
 3 body reinstates the decision while in compliance with ORS 192.610 to 192.690. A decision that is
 4 reinstated is effective from the date of its initial adoption.

5 (2) Any person affected by a decision of a governing body of a public body may commence a suit
 6 in the circuit court for the county in which the governing body ordinarily meets, for the purpose
 7 of requiring compliance with, or the prevention of violations of ORS 192.610 to 192.690, by members
 8 of the governing body, or to determine the applicability of ORS 192.610 to 192.690 to matters or
 9 decisions of the governing body.

10 (3) Notwithstanding subsection (1) of this section, if the court finds that the public body made
 11 a decision while in violation of ORS 192.610 to 192.690, the court shall void the decision of the
 12 governing body if the court finds that the violation was the result of intentional disregard of the law
 13 or willful misconduct by a quorum of the members of the governing body, unless other equitable
 14 relief is available. The court may order such equitable relief as it deems appropriate in the cir-
 15 cumstances. The court may order payment to a successful plaintiff in a suit brought under this
 16 section of reasonable attorney fees at trial and on appeal, by the governing body, or public body of
 17 which it is a part or to which it reports.

18 (4) If the court makes a finding that a violation of ORS 192.610 to 192.690 has occurred under
 19 subsection (2) of this section and that the violation is the result of willful misconduct by any member
 20 or members of the governing body, that member or members shall be jointly and severally liable to
 21 the governing body or the public body of which it is a part for the amount paid by the body under
 22 subsection (3) of this section.

23 (5) Any suit brought under subsection (2) of this section must be commenced within 60 days
 24 following the date that the decision becomes public record.

25 (6) The provisions of this section shall be the exclusive remedy for an alleged violation of ORS
 26 192.610 to 192.690, **except that this subsection does not apply to proceedings of the Oregon**
 27 **Government Ethics Commission.**

28 **SECTION 4.** ORS 244.255 is amended to read:

29 244.255. (1) The Oregon Government Ethics Commission shall estimate in advance the expenses
 30 that it will incur during a biennium in carrying out the provisions of ORS 171.725 to 171.785, [and]
 31 171.992 **and 192.610 to 192.690** and this chapter. The commission shall also determine what per-
 32 centage of the expenses should be borne by the following two groups of public bodies:

33 (a) Public bodies in state government; and

34 (b) Local governments, local service districts and special government bodies that are subject to
 35 the Municipal Audit Law.

36 (2) The commission shall charge each public body for the public body's share of the expenses
 37 described in subsection (1) of this section for the biennium. The amount to be charged each public
 38 body shall be determined as follows:

39 (a) The commission shall determine the rate to be charged public bodies in state government.
 40 The same rate shall be applied to each public body described in this paragraph. To determine the
 41 amount of the charge for each public body, the commission shall multiply the rate determined under
 42 this paragraph by the number of public officials serving the public body.

43 (b) The commission shall set the charge for local governments, local service districts and special
 44 government bodies that are subject to the Municipal Audit Law so that each local government, local
 45 service district or special government body described in this paragraph pays an amount of the total

1 expenses for the group that bears the same proportion to the total expenses that the amount charged
 2 to the local government, local service district or special government body for the municipal audit
 3 fee under ORS 297.485 bears to the total amount assessed for the municipal audit fee.

4 (3) Each public body shall pay to the credit of the commission the charge described in this
 5 section as an administrative expense from funds or appropriations available to the public body in
 6 the same manner as other claims against the public body are paid.

7 (4) All moneys received by the commission under this section shall be credited to the Oregon
 8 Government Ethics Commission Account established under ORS 244.345.

9 (5) The commission shall adopt rules specifying the methods for calculating and collecting the
 10 rates and charges described in this section.

11 (6) As used in this section:

12 (a) "Local government" and "local service district" have the meanings given those terms in ORS
 13 174.116.

14 (b) "Public body" has the meaning given that term in ORS 174.109.

15 (c) "Public official," notwithstanding ORS 244.020 (15), means any person who, on the date the
 16 commission charges the public body under this section, is serving the public body as an officer or
 17 employee.

18 (d) "Special government body" has the meaning given that term in ORS 174.117.

19 (e) "State government" has the meaning given that term in ORS 174.111.

20 **SECTION 5.** ORS 244.270 is amended to read:

21 244.270. (1) If the Oregon Government Ethics Commission finds that an appointed public official
 22 has violated any provision of this chapter or any rule adopted under this chapter, **or has violated**
 23 **any provision of ORS 192.610 to 192.690 with intentional disregard of the law or willful mis-**
 24 **conduct**, the finding is prima facie evidence of unfitness where removal is authorized for cause ei-
 25 ther by law or pursuant to section 6, Article VII (Amended) of the Oregon Constitution.

26 (2) If the commission finds that a public official has violated any provision of this chapter or
 27 any rule adopted under this chapter, **or has violated any provision of ORS 192.610 to 192.690**, the
 28 commission shall notify the public body, as defined in ORS 174.109, that the public official serves.
 29 The notice shall describe the violation and any action taken by the commission. The commission
 30 shall provide the notice not later than 10 business days after the date the commission takes final
 31 action against the public official.

32 **SECTION 6.** ORS 244.290 is amended to read:

33 244.290. (1) The Oregon Government Ethics Commission shall:

34 (a) Prescribe forms for statements required by this chapter and provide the forms to persons
 35 required to file the statements under this chapter or pursuant to a resolution adopted under ORS
 36 244.160.

37 (b) Develop a filing, coding and cross-indexing system consistent with the purposes of this
 38 chapter.

39 (c) Prepare and publish reports the commission finds are necessary.

40 (d) Accept and file any information voluntarily supplied that exceeds the requirements of this
 41 chapter.

42 (e) Make statements and other information filed with the commission available for public in-
 43 spection and copying during regular office hours, and make copying facilities available at a charge
 44 not to exceed actual cost.

45 (f) Not later than February 1 of each odd-numbered year, report to the Legislative Assembly any

1 recommended changes to provisions of ORS 171.725 to 171.785 or this chapter.

2 (2) The commission shall adopt rules necessary to carry out its duties under ORS 171.725 to
 3 171.785, 171.992[, 192.660 and 192.685] **and 192.610 to 192.690** and this chapter, including rules to:

4 (a) Create a procedure under which items before the commission may be treated under a consent
 5 calendar and voted on as a single item;

6 (b) Exempt a public official who is otherwise required to file a statement pursuant to ORS
 7 244.050 from filing the statement if the regularity, number and frequency of the meetings and actions
 8 of the body over which the public official has jurisdiction are so few or infrequent as not to warrant
 9 the public disclosure;

10 (c) Establish an administrative process whereby a person subpoenaed by the commission may
 11 obtain a protective order;

12 (d) List criteria and establish a process for the commission to use prosecutorial discretion to
 13 decide whether to proceed with an inquiry or investigation;

14 (e) Establish a procedure under which the commission shall conduct accuracy audits of a sample
 15 of reports or statements filed with the commission under this chapter or ORS 171.725 to 171.785;

16 (f) Describe the application of provisions exempting items from the definition of “gift” in ORS
 17 244.020;

18 (g) Specify when a continuing violation is considered a single violation or a separate and dis-
 19 tinct violation for each day the violation occurs; and

20 (h) Set criteria for determining the amount of civil penalties that the commission may impose.

21 (3) The commission may adopt rules that:

22 (a) Limit the minimum size of, or otherwise establish criteria for or identify, the smaller classes
 23 that qualify under the class exception from the definition of “potential conflict of interest” under
 24 ORS 244.020;

25 (b) Require the disclosure and reporting of gifts or other compensation made to or received by
 26 a public official or candidate;

27 (c) Establish criteria for cases in which information relating to notices of actual or potential
 28 conflicts of interest shall, may not or may be provided to the commission under ORS 244.130; or

29 (d) Allow the commission to accept the filing of a statement containing less than all of the in-
 30 formation required under ORS 244.060 and 244.070 if the public official or candidate certifies on the
 31 statement that the information contained on the statement previously filed is unchanged or certifies
 32 only as to any changed material.

33 (4) Not less frequently than once each calendar year, the commission shall:

34 (a) Consider adoption of rules the commission deems necessary to implement or interpret pro-
 35 visions of this chapter relating to issues the commission determines are of general interest to public
 36 officials or candidates or that are addressed by the commission or by commission staff on a recur-
 37 ring basis; and

38 (b) Review rules previously adopted by the commission to determine whether the rules have
 39 continuing applicability or whether the rules should be amended or repealed.

40 (5) The commission shall adopt by rule an electronic filing system under which statements re-
 41 quired to be filed under ORS 244.050 and 244.217 must be filed, without a fee, with the commission
 42 in an electronic format.

43 (6) The commission shall make available in a searchable format for review by the public using
 44 the Internet:

45 (a) Statements filed under ORS 244.050 and 244.217;

1 (b) Advisory opinions issued by the commission or the executive director of the commission;

2 (c) Findings issued by the commission under ORS 244.260 in instances where the commission
 3 determines that there has been a violation of a provision of this chapter or of any rule adopted by
 4 the commission under this chapter. Nothing in this paragraph requires the commission to make
 5 publicly available materials that are otherwise exempt from public disclosure or that are required
 6 to be kept confidential by the commission; and

7 (d) Lobbyist registration statements and revisions and updates to lobbyist registration state-
 8 ments filed under ORS 171.740. The information required under this paragraph must be available in
 9 a searchable format for review by the public using the Internet not later than one calendar day after
 10 the lobbyist files the information with the commission.

11 **SECTION 7.** ORS 244.350 is amended to read:

12 244.350. (1) The Oregon Government Ethics Commission may impose civil penalties not to ex-
 13 ceed:

14 (a) Except as provided in paragraphs (b), (c) and (d) of this subsection, \$5,000 for violation of
 15 any provision of this chapter or any resolution adopted under ORS 244.160.

16 (b) \$25,000 for violation of ORS 244.045.

17 (c) \$10,000 for willfully violating ORS 244.040.

18 (d) Two times the amount of the penalty provision for violating a nondisclosure agreement that
 19 is contained within each nondisclosure agreement entered into in violation of ORS 244.049.

20 (2)(a) Except as provided in paragraph (b) of this subsection, the commission may impose civil
 21 penalties not to exceed \$1,000 for violation of any provision of ORS [192.660] **192.610 to 192.690**.

22 (b) A civil penalty may not be imposed under this subsection if the violation occurred as a result
 23 of the governing body of the public body acting upon the advice of the public body's counsel.

24 (3) The commission may impose civil penalties not to exceed \$250 for violation of ORS 293.708.
 25 A civil penalty imposed under this subsection is in addition to and not in lieu of a civil penalty that
 26 may be imposed under subsection (1) of this section.

27 (4)(a) The commission may impose civil penalties on a person who fails to file the statement
 28 required under ORS 244.050 or 244.217. In enforcing this subsection, the commission is not required
 29 to follow the procedures in ORS 244.260 before finding that a violation of ORS 244.050 or 244.217
 30 has occurred.

31 (b) Failure to file the required statement in timely fashion is prima facie evidence of a violation
 32 of ORS 244.050 or 244.217.

33 (c) The commission may impose a civil penalty of \$10 for each of the first 14 days the statement
 34 is late beyond the date set by law, or by the commission under ORS 244.050, and \$50 for each day
 35 thereafter. The maximum penalty that may be imposed under this subsection is \$5,000.

36 (5) In lieu of or in conjunction with finding a violation of law or any resolution or imposing a
 37 civil penalty under this section, the commission may issue a written letter of reprimand, explanation
 38 or education.

39 **(6)(a) A civil penalty imposed under this section for a violation of ORS 192.610 to 192.690**
 40 **is a personal liability of each member of the governing body on whom the penalty is imposed**
 41 **and may not be paid for or indemnified by the governing body or public body that the member**
 42 **is associated with.**

43 **(b) As used in this subsection, "governing body" and "public body" have the meanings**
 44 **given those terms in ORS 192.610.**

45 **SECTION 8.** Section 9 of this 2022 Act is added to and made a part of ORS 192.610 to

1 **192.690.**

2 **SECTION 9. (1) The Oregon Government Ethics Commission shall develop and present**
3 **training sessions to governing bodies on the requirements of ORS 192.610 to 192.690 and on**
4 **best practices for public officials who are members of governing bodies to be in compliance**
5 **with the requirements of ORS 192.610 to 192.690.**

6 **(2)(a) Each member of a governing body shall attend a training session described in**
7 **subsection (1) of this section at least once per term of elected or appointed office. The**
8 **training shall take place during the first year of the term.**

9 **(b) Each public official who customarily and routinely engages with, provides advice and**
10 **counsel to or otherwise interacts with a governing body, but who does not hold a public office**
11 **that has a defined term, shall attend a training session described in subsection (1) of this**
12 **section at least once every two years.**

13 **(3) The commission may conduct training sessions described in this section either in**
14 **person or through electronic means. Training sessions may be presented to multiple gov-**
15 **erning bodies at any one time and may be presented in a prerecorded format.**

16 **SECTION 10. Section 9 of this 2022 Act becomes operative on January 1, 2023.**

17 **SECTION 11. ORS 192.695 is added to and made a part of ORS 192.610 to 192.690.**

18 **SECTION 12. This 2022 Act takes effect on the 91st day after the date on which the 2022**
19 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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