

Requested by Representative NERON

**PROPOSED AMENDMENTS TO
HOUSE BILL 4140**

1 On page 1 of the printed bill, delete lines 24 through 27 and delete pages
2 2 through 10 and insert:

3 **“SECTION 1.** ORS 192.685 is amended to read:

4 “192.685. (1) Notwithstanding ORS 192.680, complaints of violations of
5 [ORS 192.660] **any provision of ORS 192.610 to 192.690** alleged to have been
6 committed by public officials may be made to the Oregon Government Ethics
7 Commission for review and investigation as provided by ORS 244.260 and for
8 possible imposition of civil penalties as provided by ORS 244.350.

9 “(2) The commission may interview witnesses, review minutes and other
10 records and [may] obtain and consider any other information pertaining to
11 [executive sessions] **meetings** of the governing body of a public body for
12 purposes of determining whether a violation of ORS [192.660] **192.610 to**
13 **192.690** occurred. Information related to an executive session conducted for
14 a purpose authorized by ORS 192.660 shall be made available to the Oregon
15 Government Ethics Commission for its investigation but shall be excluded
16 from public disclosure.

17 “(3) If the commission chooses not to pursue a complaint of a violation
18 brought under subsection (1) of this section at any time before conclusion
19 of a contested case hearing, the public official against whom the complaint
20 was brought may be entitled to reimbursement of reasonable costs and at-
21 torney fees by the public body to which the official’s governing body has

1 authority to make recommendations or for which the official's governing
2 body has authority to make decisions.

3 **“SECTION 2.** ORS 244.260 is amended to read:

4 “244.260. (1)(a) Any person may file with the Oregon Government Ethics
5 Commission a signed **or electronically signed** written complaint alleging
6 that there has been a violation of **either:**

7 **“(A)** Any provision of this chapter or of any rule adopted by the com-
8 mission under this chapter. The complaint shall state the person's reason for
9 believing that a violation occurred and include any evidence relating to the
10 alleged violation.

11 **“(B) ORS 192.610 to 192.690. The complaint shall state the particulars**
12 **of meetings of a governing body that were not in compliance with ORS**
13 **192.610 to 192.690 and shall state the person's reason for believing that**
14 **a violation occurred. The person shall include any evidence relating**
15 **to the alleged violation with the complaint. A complaint made under**
16 **this subparagraph may not be brought against a public body or a**
17 **governing body of a public body, and may only be brought against in-**
18 **dividual members of a governing body.**

19 “(b) If at any time the commission has reason to believe that there has
20 been a violation of a provision of this chapter or of a rule adopted by the
21 commission under this chapter, the commission may proceed under this sec-
22 tion on its own motion as if the commission had received a complaint.

23 “(2)(a) Not later than two business days after receiving a complaint under
24 this section, the commission shall notify the person who is the subject of the
25 complaint.

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

1 business days after the motion is approved.

2 “(c) The commission shall give notice of the complaint or motion under
3 paragraph (a) or (b) of this subsection. The notice must describe the nature
4 of the alleged violation. The notice must include copies of all materials
5 submitted with a complaint. If the commission will consider a motion to
6 proceed without a complaint, the notice must provide copies of all materials
7 that the commission will consider at the hearing on the motion.

8 “(d) Information that the commission considers before approving a motion
9 to proceed on its own motion under this section and any correspondence re-
10 garding the motion or potential violation is confidential. The executive di-
11 rector of the commission and the commission members and staff may not
12 make any public comment or publicly disclose any materials relating to the
13 motion pending the commission’s approval to proceed. A person who inten-
14 tionally violates this paragraph is subject to a civil penalty in an amount
15 not to exceed \$1,000. Any person aggrieved as a result of a violation of this
16 paragraph by the executive director or a member of the commission or its
17 staff may file a petition in a court of competent jurisdiction in the county
18 in which the petitioner resides in order to enforce the civil penalty provided
19 in this paragraph.

20 “(3) After the commission receives a complaint or decides to proceed on
21 its own motion, the executive director of the commission shall undertake
22 action in the Preliminary Review Phase to determine whether there is cause
23 to undertake an investigation. If the person who is the subject of the action
24 is a member of the Legislative Assembly, the executive director shall deter-
25 mine whether the alleged violation involves conduct protected by Article IV,
26 section 9, of the Oregon Constitution.

27 “(4)(a) The Preliminary Review Phase begins on the date the complaint
28 is filed or the date the commission decides to proceed on its own motion and
29 ends on the date the executive director completes the statement of the facts
30 determined during the phase under paragraph (d) of this subsection. The

1 Preliminary Review Phase may not exceed 60 days unless a complaint is filed
2 under this section with respect to a person who is a candidate for elective
3 public office, the complaint is filed within 61 days before the date of an
4 election at which the person is a candidate for nomination or election and
5 a delay is requested in writing by the candidate. If the candidate makes a
6 request under this paragraph, the Preliminary Review Phase must be com-
7 pleted not later than 60 days after the date of the election.

8 “(b) During the Preliminary Review Phase, the executive director of the
9 commission may seek, solicit or otherwise obtain any books, papers, records,
10 memoranda or other additional information, administer oaths and take de-
11 positions necessary to determine whether there is cause to undertake an in-
12 vestigation or whether the alleged violation involves conduct protected by
13 Article IV, section 9, of the Oregon Constitution.

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

24 “(d)(A) At the end of the Preliminary Review Phase, the executive direc-
25 tor of the commission shall prepare a statement of the facts determined
26 during the phase, including appropriate legal citations and relevant author-
27 ities. Before presentation to the commission, the executive director’s state-
28 ment shall be reviewed by legal counsel to the commission.

29 “(B) Following the conclusion of the Preliminary Review Phase, the
30 executive director of the commission shall attend an executive session of the

1 commission where the executive director shall present the statement of the
2 facts and summarize the results of the Preliminary Review Phase to the
3 commission and recommend to the commission whether there is cause to
4 undertake an investigation or whether the commission should instead dismiss
5 the complaint or rescind its motion.

6 “(C) At the executive session, the commission shall consider the recom-
7 mendation of the executive director and make the final determination as to
8 whether there is cause to undertake an investigation or whether the com-
9 mission should instead dismiss the complaint or rescind its motion.

10 “(D) All case related materials and proceedings shall be open to the pub-
11 lic after the commission makes a finding of cause to undertake an investi-
12 gation, dismisses a complaint or rescinds a motion.

13 “(e) The time limit imposed in this subsection and the commission’s in-
14 quiry are suspended if a court has enjoined the executive director or the
15 commission from continuing the inquiry.

16 “(5)(a) If the commission determines that there is not cause to undertake
17 an investigation or that the alleged violation of this chapter involves con-
18 duct protected by Article IV, section 9, of the Oregon Constitution, the
19 commission shall dismiss the complaint or rescind its motion and formally
20 enter the dismissal or rescission in its records. If the commission considers
21 the recommendation of the executive director in an executive session but the
22 commission does not affirmatively vote to undertake an investigation, dis-
23 miss the complaint or rescind its motion, the nonaction taken by the com-
24 mission shall be considered a dismissal of the complaint or a rescission of
25 its motion. The commission shall notify the person who is the subject of
26 action under this section of the dismissal or rescission. After dismissal or
27 rescission, the commission may not take further action involving the person
28 unless a new and different complaint is filed or action on the commission’s
29 own motion is undertaken based on different conduct.

30 “(b) If the commission makes a finding of cause to undertake an investi-

1 gation, the commission shall undertake action in the Investigatory Phase.
2 The commission shall notify the person who is the subject of the investi-
3 gation, identify the issues to be examined and confine the investigation to
4 those issues. If the commission finds reason to expand the investigation, the
5 commission shall move to do so, record in its minutes the issues to be ex-
6 amined before expanding the scope of its investigation and formally notify
7 the complainant, if any, and the person who is the subject of the investi-
8 gation of the expansion and the scope of the investigation.

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

18 “(b) During the Investigatory Phase, the commission may seek any addi-
19 tional information, administer oaths, take depositions and issue subpoenas
20 to compel attendance of witnesses and the production of books, papers, re-
21 cords, memoranda or other information necessary to complete the investi-
22 gation. If any person fails to comply with any subpoena issued under this
23 paragraph or refuses to testify on any matters on which the person may be
24 lawfully interrogated, the commission shall follow the procedure described
25 in ORS 183.440 to compel compliance.

26 “(c) The time limit imposed in this subsection and the commission’s in-
27 vestigation:

28 “(A) May be suspended if there is a pending criminal investigation that
29 relates to the issues arising out of the underlying facts or conduct at issue
30 in the matter before the commission and the commission determines that it

1 cannot adequately complete its investigation until the pending criminal in-
2 vestigation is complete; [or]

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

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

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

11 “(A) Dismissal, with or without comment;

12 “(B) Continuation of the investigation for a period not to exceed 30 days
13 for the purpose of additional fact-finding;

14 “(C) Moving to a contested case proceeding;

15 “(D) Entering into a negotiated settlement; or

16 “(E) Taking other appropriate action if justified by the findings.

17 “(e) The commission may move to a contested case proceeding if the
18 commission determines that the information presented to the commission is
19 sufficient to make a preliminary finding of:

20 **“(A) A violation of any provision of this chapter or of any rule adopted**
21 **by the commission under this chapter; or**

22 **“(B) A violation of any provision of ORS 192.610 to 192.690.**

23 “(7) A person conducting any inquiry or investigation under this section
24 shall:

25 “(a) Conduct the inquiry or investigation in an impartial and objective
26 manner; and

27 “(b) Provide to the executive director or the commission all favorable and
28 unfavorable information the person collects.

29 “(8) The commission shall report the findings of any inquiry or investi-
30 gation in an impartial manner. The commission shall report both favorable

1 and unfavorable findings and shall make the findings available to:

2 “(a) The person who is the subject of the inquiry or investigation;

3 “(b) The appointing authority, if any;

4 “(c) The Attorney General, if the findings relate to a state public official;

5 “(d) The appropriate district attorney, if the findings relate to a local
6 public official; [*and*]

7 “(e) The Commission on Judicial Fitness and Disability, if the findings
8 relate to a judge; **and**

9 **“(f) The governing body of a public body, if the inquiry or investi-**
10 **gation concerns an alleged violation of ORS 192.610 to 192.690 and the**
11 **person who is the subject of the inquiry or investigation is a member**
12 **of that governing body.**

13 “(9) Hearings conducted under this chapter must be held before an ad-
14 ministrative law judge assigned from the Office of Administrative Hearings
15 established under ORS 183.605. The procedure shall be that for a contested
16 case under ORS chapter 183.

17 “(10) The Oregon Government Ethics Commission may not inquire into
18 or investigate any conduct that occurred more than four years before a
19 complaint is filed or a motion is approved under subsection (1) of this sec-
20 tion.

21 “(11) This section does not prevent the commission and the person alleged
22 to have violated any provision of this chapter or any rule adopted by the
23 commission under this chapter from stipulating to a finding of fact con-
24 cerning the violation and consenting to an appropriate penalty. The com-
25 mission shall enter an order based on the stipulation and consent.

26 “(12) At any time during proceedings conducted under this section, the
27 commission may enter into a negotiated settlement with the person who is
28 the subject of action under this section.

29 “(13) As used in this section:

30 “(a) ‘Cause’ means that there is a substantial, objective basis for believing

1 that an offense or violation may have been committed and the person who
2 is the subject of an inquiry may have committed the offense or violation.

3 **“(b) ‘Governing body’ has the meaning given that term in ORS**
4 **192.610.**

5 “[*b*] (c) ‘Pending’ means that a prosecuting attorney is either actively
6 investigating the factual basis of the alleged criminal conduct, is preparing
7 to seek or is seeking an accusatory instrument, has obtained an accusatory
8 instrument and is proceeding to trial or is in trial or in the process of ne-
9 gotiating a plea.

10 **“(d) ‘Public body’ has the meaning given that term in ORS 192.610.**

11 **“SECTION 3.** ORS 192.680 is amended to read:

12 “192.680. (1) A decision made by a governing body of a public body in vi-
13 olation of ORS 192.610 to 192.690 shall be voidable. The decision shall not
14 be voided if the governing body of the public body reinstates the decision
15 while in compliance with ORS 192.610 to 192.690. A decision that is rein-
16 stated is effective from the date of its initial adoption.

17 “(2) Any person affected by a decision of a governing body of a public
18 body may commence a suit in the circuit court for the county in which the
19 governing body ordinarily meets, for the purpose of requiring compliance
20 with, or the prevention of violations of ORS 192.610 to 192.690, by members
21 of the governing body, or to determine the applicability of ORS 192.610 to
22 192.690 to matters or decisions of the governing body.

23 “(3) Notwithstanding subsection (1) of this section, if the court finds that
24 the public body made a decision while in violation of ORS 192.610 to 192.690,
25 the court shall void the decision of the governing body if the court finds that
26 the violation was the result of intentional disregard of the law or willful
27 misconduct by a quorum of the members of the governing body, unless other
28 equitable relief is available. The court may order such equitable relief as it
29 deems appropriate in the circumstances. The court may order payment to a
30 successful plaintiff in a suit brought under this section of reasonable attor-

1 ney fees at trial and on appeal, by the governing body, or public body of
2 which it is a part or to which it reports.

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

9 “(5) Any suit brought under subsection (2) of this section must be com-
10 menced within 60 days following the date that the decision becomes public
11 record.

12 “(6) The provisions of this section shall be the exclusive remedy for an
13 alleged violation of ORS 192.610 to 192.690, **except that this subsection**
14 **does not apply to proceedings of the Oregon Government Ethics Com-**
15 **mission.**

16 **“SECTION 4.** ORS 244.255 is amended to read:

17 “244.255. (1) The Oregon Government Ethics Commission shall estimate
18 in advance the expenses that it will incur during a biennium in carrying out
19 the provisions of ORS 171.725 to 171.785, [and] 171.992 **and 192.610 to 192.690**
20 and this chapter. The commission shall also determine what percentage of
21 the expenses should be borne by the following two groups of public bodies:

22 “(a) Public bodies in state government; and

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

25 “(2) The commission shall charge each public body for the public body’s
26 share of the expenses described in subsection (1) of this section for the
27 biennium. The amount to be charged each public body shall be determined
28 as follows:

29 “(a) The commission shall determine the rate to be charged public bodies
30 in state government. The same rate shall be applied to each public body de-

1 scribed in this paragraph. To determine the amount of the charge for each
2 public body, the commission shall multiply the rate determined under this
3 paragraph by the number of public officials serving the public body.

4 “(b) The commission shall set the charge for local governments, local
5 service districts and special government bodies that are subject to the Mu-
6 nicipal Audit Law so that each local government, local service district or
7 special government body described in this paragraph pays an amount of the
8 total expenses for the group that bears the same proportion to the total ex-
9 penses that the amount charged to the local government, local service dis-
10 trict or special government body for the municipal audit fee under ORS
11 297.485 bears to the total amount assessed for the municipal audit fee.

12 “(3) Each public body shall pay to the credit of the commission the charge
13 described in this section as an administrative expense from funds or appro-
14 priations available to the public body in the same manner as other claims
15 against the public body are paid.

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

19 “(5) The commission shall adopt rules specifying the methods for calcu-
20 lating and collecting the rates and charges described in this section.

21 “(6) As used in this section:

22 “(a) ‘Local government’ and ‘local service district’ have the meanings
23 given those terms in ORS 174.116.

24 “(b) ‘Public body’ has the meaning given that term in ORS 174.109.

25 “(c) ‘Public official,’ notwithstanding ORS 244.020 (15), means any person
26 who, on the date the commission charges the public body under this section,
27 is serving the public body as an officer or employee.

28 “(d) ‘Special government body’ has the meaning given that term in ORS
29 174.117.

30 “(e) ‘State government’ has the meaning given that term in ORS 174.111.

1 **“SECTION 5.** ORS 244.270 is amended to read:

2 “244.270. (1) If the Oregon Government Ethics Commission finds that an
3 appointed public official has violated any provision of this chapter or any
4 rule adopted under this chapter, **or has violated any provision of ORS**
5 **192.610 to 192.690 with intentional disregard of the law or willful mis-**
6 **conduct**, the finding is prima facie evidence of unfitness where removal is
7 authorized for cause either by law or pursuant to section 6, Article VII
8 (Amended) of the Oregon Constitution.

9 “(2) If the commission finds that a public official has violated any pro-
10 vision of this chapter or any rule adopted under this chapter, **or has vio-**
11 **lated any provision of ORS 192.610 to 192.690**, the commission shall notify
12 the public body, as defined in ORS 174.109, that the public official serves.
13 The notice shall describe the violation and any action taken by the com-
14 mission. The commission shall provide the notice not later than 10 business
15 days after the date the commission takes final action against the public of-
16 ficial.

17 **“SECTION 6.** ORS 244.290 is amended to read:

18 “244.290. (1) The Oregon Government Ethics Commission shall:

19 “(a) Prescribe forms for statements required by this chapter and provide
20 the forms to persons required to file the statements under this chapter or
21 pursuant to a resolution adopted under ORS 244.160.

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

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

25 “(d) Accept and file any information voluntarily supplied that exceeds the
26 requirements of this chapter.

27 “(e) Make statements and other information filed with the commission
28 available for public inspection and copying during regular office hours, and
29 make copying facilities available at a charge not to exceed actual cost.

30 “(f) Not later than February 1 of each odd-numbered year, report to the

1 Legislative Assembly any recommended changes to provisions of ORS 171.725
2 to 171.785 or this chapter.

3 “(2) The commission shall adopt rules necessary to carry out its duties
4 under ORS 171.725 to 171.785, 171.992[, 192.660 and 192.685] **and 192.610 to**
5 **192.690** and this chapter, including rules to:

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

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

13 “(c) Establish an administrative process whereby a person subpoenaed by
14 the commission may obtain a protective order;

15 “(d) List criteria and establish a process for the commission to use
16 prosecutorial discretion to decide whether to proceed with an inquiry or in-
17 vestigation;

18 “(e) Establish a procedure under which the commission shall conduct ac-
19 curacy audits of a sample of reports or statements filed with the commission
20 under this chapter or ORS 171.725 to 171.785;

21 “(f) Describe the application of provisions exempting items from the defi-
22 nition of ‘gift’ in ORS 244.020;

23 “(g) Specify when a continuing violation is considered a single violation
24 or a separate and distinct violation for each day the violation occurs; and

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

27 “(3) The commission may adopt rules that:

28 “(a) Limit the minimum size of, or otherwise establish criteria for or
29 identify, the smaller classes that qualify under the class exception from the
30 definition of ‘potential conflict of interest’ under ORS 244.020;

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

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

6 “(d) Allow the commission to accept the filing of a statement containing
7 less than all of the information required under ORS 244.060 and 244.070 if
8 the public official or candidate certifies on the statement that the informa-
9 tion contained on the statement previously filed is unchanged or certifies
10 only as to any changed material.

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

13 “(a) Consider adoption of rules the commission deems necessary to im-
14 plement or interpret provisions of this chapter relating to issues the com-
15 mission determines are of general interest to public officials or candidates
16 or that are addressed by the commission or by commission staff on a recur-
17 ring basis; and

18 “(b) Review rules previously adopted by the commission to determine
19 whether the rules have continuing applicability or whether the rules should
20 be amended or repealed.

21 “(5) The commission shall adopt by rule an electronic filing system under
22 which statements required to be filed under ORS 244.050 and 244.217 must
23 be filed, without a fee, with the commission in an electronic format.

24 “(6) The commission shall make available in a searchable format for re-
25 view by the public using the Internet:

26 “(a) Statements filed under ORS 244.050 and 244.217;

27 “(b) Advisory opinions issued by the commission or the executive director
28 of the commission;

29 “(c) Findings issued by the commission under ORS 244.260 in instances
30 where the commission determines that there has been a violation of a pro-

1 vision of this chapter or of any rule adopted by the commission under this
2 chapter. Nothing in this paragraph requires the commission to make publicly
3 available materials that are otherwise exempt from public disclosure or that
4 are required to be kept confidential by the commission; and

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

10 **“SECTION 7.** ORS 244.350 is amended to read:

11 “244.350. (1) The Oregon Government Ethics Commission may impose civil
12 penalties not to exceed:

13 “(a) Except as provided in paragraphs (b), (c) and (d) of this subsection,
14 \$5,000 for violation of any provision of this chapter or any resolution adopted
15 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
19 nondisclosure agreement that is contained within each nondisclosure agree-
20 ment entered into in violation of ORS 244.049.

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

24 “(b) A civil penalty may not be imposed under this subsection if the vio-
25 lation occurred as a result of the governing body of the public body acting
26 upon the advice of the public body’s counsel.

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

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

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

7 “(c) The commission may impose a civil penalty of \$10 for each of the first
8 14 days the statement is late beyond the date set by law, or by the commis-
9 sion under ORS 244.050, and \$50 for each day thereafter. The maximum pen-
10 alty that may be imposed under this subsection is \$5,000.

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

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

19 “(b) **As used in this subsection, ‘governing body’ and ‘public body’**
20 **have the meanings given those terms in ORS 192.610.**

21 “**SECTION 8. Section 9 of this 2022 Act is added to and made a part**
22 **of ORS 192.610 to 192.690.**

23 “**SECTION 9. (1) The Oregon Government Ethics Commission shall**
24 **develop and present training sessions to governing bodies on the re-**
25 **quirements of ORS 192.610 to 192.690 and on best practices for public**
26 **officials who are members of governing bodies to be in compliance**
27 **with the requirements of ORS 192.610 to 192.690.**

28 “(2)(a) **Each member of a governing body shall attend a training**
29 **session described in this section at least once per term of elected or**
30 **appointed office. The training shall take place during the first year of**

1 **the term.**

2 **“(b)(A) Except as provided in subparagraph (B) of this paragraph,**
3 **each public official who has a duty to provide and who customarily**
4 **does provide legal advice on public meetings law or upper-level mana-**
5 **gerial advice on public meetings law to a governing body, but who does**
6 **not hold a public office that has a defined term, shall attend a training**
7 **session described in this section at least once every two years. For**
8 **purposes of this paragraph, ‘upper-level managerial advice’ means ad-**
9 **vice given by an individual who is not supervised by any person or**
10 **entity other than the governing body that the individual reports to.**

11 **“(B) Public officials who are employees of or otherwise affiliated**
12 **with school districts, education service districts or public charter**
13 **schools are exempt from the requirement to attend a training session**
14 **described in this section, except that the following public officials shall**
15 **attend a training session described in this section at least once every**
16 **two years:**

17 **“(i) School district superintendents and those deputy or assistant**
18 **superintendents of a school district who routinely and customarily**
19 **work with the school board of the district;**

20 **“(ii) Education service district directors and superintendents; and**

21 **“(iii) The principal or executive director of a public charter school.**

22 **“(3) Training sessions described in this section may be conducted**
23 **either in person or through electronic means. Training sessions may**
24 **be presented to multiple governing bodies at any one time and may**
25 **be presented in a prerecorded format.**

26 **“(4)(a) The commission may adopt by rule criteria for training ses-**
27 **sions to be developed by other entities that will satisfy the training**
28 **requirements of this section. The commission may establish fees de-**
29 **signed to recoup the costs incurred by the commission in the review**
30 **of training session applications described in this subsection.**

1 **“(b) Following adoption of training session criteria, an entity in-**
2 **terested in presenting training that would satisfy the requirements of**
3 **this section may apply to the commission for approval of one or more**
4 **training sessions to be presented by the entity. The application shall**
5 **contain the information requested by the commission and may be**
6 **further supplemented at the request of commission staff. Commission**
7 **staff shall review each application to determine if the proposed train-**
8 **ing satisfies the criteria established by the commission and shall ap-**
9 **prove those applications that describe training that satisfies applicable**
10 **criteria.**

11 **“(5) An individual described in subsection (2) of this section who is**
12 **required to take training may satisfy this requirement by taking a**
13 **training session that has been approved under subsection (4) of this**
14 **section.**

15 **“SECTION 10. (1) Section 9 of this 2022 Act and the amendments to**
16 **ORS 192.680, 192.685, 244.255, 244.260, 244.270, 244.290 and 244.350 by**
17 **sections 1 to 8 of this 2022 Act become operative on January 1, 2023.**

18 **“(2) The Oregon Government Ethics Commission may adopt rules**
19 **and take any other action before the operative date specified in sub-**
20 **section (1) of this section that is necessary to enable the commission,**
21 **on and after the operative date specified in subsection (1) of this sec-**
22 **tion, to exercise all of the duties, functions and powers conferred on**
23 **the commission by section 9 of this 2022 Act and the amendments to**
24 **ORS 192.680, 192.685, 244.255, 244.260, 244.270, 244.290 and 244.350 by**
25 **sections 1 to 8 of this 2022 Act.**

26 **“SECTION 11. ORS 192.695 is added to and made a part of ORS**
27 **192.610 to 192.690.**

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

