

# Senate Bill 44

Sponsored by Senator FINDLEY (at the request of Oregon Business and Industry) (Pre-session 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**.

Establishes office of business ombudsman in Oregon Department of Administrative Services. Specifies functions, powers and duties of office. Authorizes business ombudsman to issue order directing action by state agency if business experiences significant hardship because of administration of laws that affect business. Requires business ombudsman to report biennially on operation of office to committee of Legislative Assembly related to state agency operations.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to an ombudsman office for business; and prescribing an effective date.

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

4     **SECTION 1. (1) The office of the business ombudsman is established in the Oregon De-**  
5 **partment of Administrative Services. The office is subject to all confidentiality and disclo-**  
6 **sure provisions that apply to the department. The office shall assist businesses that operate**  
7 **in this state with regulatory compliance, including education concerning business obligations**  
8 **under the law, and shall upon request mediate interactions with state agencies, advocating**  
9 **when necessary for the reasonable and good-faith interests of businesses in such interactions**  
10 **and working collaboratively to avoid problems and penalties in favor of achieving workable**  
11 **resolutions. The Director of the Oregon Department of Administrative Services shall select**  
12 **the business ombudsman and the employees of the office, who may include employees of the**  
13 **department and residents of this state with knowledge of business operations and regulatory**  
14 **compliance.**

15     **(2) The office shall assist businesses with:**

16     **(a) Obtaining easily understandable information about state agency administrative rules,**  
17 **policies and procedures that affect the operations of the business;**

18     **(b) Locating and contacting individuals within state agencies who are best able to answer**  
19 **questions about:**

20     **(A) How a state agency's administrative rules, policies and procedures may affect the**  
21 **business's operations; and**

22     **(B) How the state agency might interpret and apply the state agency's administrative**  
23 **rules, policies and procedures in particular circumstances;**

24     **(c) Locating and completing forms, identifying required submissions and payments and**  
25 **recognizing deadlines required to meet business obligations under the law;**

26     **(d) Identifying third parties and other resources that can assist a business with regula-**  
27 **tory compliance; and**

28     **(e) Other needs the office discovers and determines would benefit from assistance from**  
29 **the office.**

**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       **(3) The office may also:**

2       **(a) Receive and evaluate complaints of improper, abusive or inefficient service by em-**  
 3 **ployees of state agencies and recommend to the director of the appropriate state agency**  
 4 **actions to respond to the complaint or correct the problem;**

5       **(b) Identify policies and practices of state agencies that could present barriers to the**  
 6 **equitable treatment of businesses, and recommend alternative policies and practices to the**  
 7 **director of the appropriate state agency;**

8       **(c) Expedite service to businesses in cases where ordinary procedures do not resolve a**  
 9 **problem;**

10       **(d) Collaborate with state agency personnel to resolve the most complex and sensitive**  
 11 **business problems and to identify and resolve systemic problems that businesses experience**  
 12 **with state agencies;**

13       **(e) Notify the director of a state agency if the office determines that the state agency is**  
 14 **improperly administering a law;**

15       **(f) Participate in and represent business interests and concerns in planning meetings,**  
 16 **reviewing instructions and formulating state agency policies and procedures that would af-**  
 17 **fect significant segments of the state’s business community;**

18       **(g) Compile data each year on the number and type of business complaints and evaluate**  
 19 **the actions state agencies take to resolve complaints;**

20       **(h) Survey businesses each year to obtain an evaluation of the quality of service state**  
 21 **agencies provide; and**

22       **(i) Perform other functions that the Director of the Oregon Department of Administra-**  
 23 **tive Services determines would assist businesses in regulatory compliance.**

24       **(4) At the request of a business, the director has the exclusive power to review actions**  
 25 **the office takes or proposes to take in assisting the business. The director may modify the**  
 26 **office’s action or proposed action.**

27       **SECTION 2.** **(1) As used in this section, “significant hardship” means a circumstance in**  
 28 **which:**

29       **(a) Adverse state agency action against a business is imminent;**

30       **(b) The state agency has failed within 90 days after identifying a compliance problem with**  
 31 **a business to act to resolve the problem; or**

32       **(c) Another condition exists that qualifies as a significant hardship under rules the**  
 33 **business ombudsman adopts.**

34       **(2) In addition to any other action the business ombudsman may take under section 1**  
 35 **of this 2023 Act, the business ombudsman may order a state agency to cease any action, take**  
 36 **any action or refrain from taking any action with respect to a business, as allowed by law,**  
 37 **if the business ombudsman determines that a business is undergoing or is about to undergo**  
 38 **a significant hardship as a result of the manner in which a state agency is administering an**  
 39 **administrative rule, policy or procedure. A business need not make a formal written request**  
 40 **before the business ombudsman issues an order under this section.**

41       **(3)(a) The business ombudsman may issue an order under this section only as an ex-**  
 42 **traordinary remedy in circumstances where the business ombudsman determines that the**  
 43 **state agency is not following applicable administrative rules or guidance related to agency**  
 44 **policies or procedures.**

45       **(b) An order issued under this section is limited to providing relief related to the state**

1 agency's policies or procedures and may not address a business's liability or substitute for  
2 informal conference procedures or normal administrative or judicial proceedings for review-  
3 ing an agency's order, fine, denial of a license or other authority to transact business or  
4 other state agency action.

5 (c) The Director of the Oregon Department of Administrative Services may review any  
6 order the business ombudsman issues under this section. The director or the business om-  
7 budsman may modify or rescind the order and shall provide a written explanation of the  
8 reasons for the modification or rescission of an order to the state agency and the business  
9 that is the subject of the order.

10 (4) An order the business ombudsman issues under this section or any modification or  
11 rescission of the order by the director is not subject to appeal.

12 **SECTION 3.** (1) Not later than September 15 of each odd-numbered year, the office of the  
13 business ombudsman shall report, in the manner required by ORS 192.245, to a committee  
14 of the Legislative Assembly related to state agency operations regarding the operation of the  
15 office.

16 (2) The report required under this section must include, for the two calendar years im-  
17 mediately preceding:

18 (a) The number of and a description of business complaints the office received.

19 (b) Actions state agencies took to resolve complaints the office received.

20 (c) Evaluations by businesses of the quality of service that state agencies provided.

21 (d) Recommendations to policymakers on how to improve administrative efficiency with  
22 respect to state agency services and operations that affect businesses in this state.

23 (e) Recommendations to policymakers on the effectiveness of the business ombudsman  
24 program in removing obstacles that interfere with or prevent businesses from complying  
25 with obligations under the law.

26 **SECTION 4.** The Oregon Department of Administrative Services may adopt rules that are  
27 necessary to carry out the purposes of sections 1 to 4 of this 2023 Act.

28 **SECTION 5.** This 2023 Act takes effect on the 91st day after the date on which the 2023  
29 regular session of the Eighty-second Legislative Assembly adjourns sine die.

30