

House Bill 2927

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Tina Kotek for Oregon Government Ethics Commission)

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Allows OGEC to prolong probes into certain alleged wrongs by up to 60 days. (Flesch Readability Score: 65.7).

Permits the Oregon Government Ethics Commission to prolong an investigation into alleged ethics law or lobbying violations by no more than 60 days.

A BILL FOR AN ACT

1
2 Relating to investigations into alleged ethics law violations; creating new provisions; and amending
3 ORS 171.778 and 244.260.

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

5 **SECTION 1.** ORS 244.260 is amended to read:

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

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

11 (B) ORS 192.610 to 192.705. The complaint shall state the particulars of meetings of a governing
12 body that were not in compliance with ORS 192.610 to 192.705 and shall state the person's reason
13 for believing that a violation occurred. The person shall include any evidence relating to the alleged
14 violation with the complaint.

15 (b) If at any time the commission has reason to believe that there has been a violation of a
16 provision of this chapter or ORS 192.660 or a rule adopted by the commission under this chapter,
17 the commission may proceed under this section on its own motion as if the commission had received
18 a complaint.

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

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

26 (c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of
27 this subsection. The notice must describe the nature of the alleged violation. The notice must in-
28 clude copies of all materials submitted with a complaint. If the commission will consider a motion
29 to proceed without a complaint, the notice must provide copies of all materials that the commission

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 will consider at the hearing on the motion.

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

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

17 (4)(a) The Preliminary Review Phase begins on the date the complaint is filed or the date the
 18 commission decides to proceed on its own motion and ends on the date the executive director com-
 19 pletes the statement of the facts determined during the phase under paragraph (d) of this subsection.
 20 The Preliminary Review Phase may not exceed 60 days unless a complaint is filed under this section
 21 with respect to a person who is a candidate for elective public office, the complaint is filed within
 22 61 days before the date of an election at which the person is a candidate for nomination or election
 23 and a delay is requested in writing by the candidate. If the candidate makes a request under this
 24 paragraph, the Preliminary Review Phase must be completed not later than 60 days after the date
 25 of the election.

26 (b) During the Preliminary Review Phase, the executive director of the commission may seek,
 27 solicit or otherwise obtain any books, papers, records, memoranda or other additional information,
 28 administer oaths and take depositions necessary to determine whether there is cause to undertake
 29 an investigation or whether the alleged violation involves conduct protected by Article IV, section
 30 9, of the Oregon Constitution.

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

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

43 (B) Following the conclusion of the Preliminary Review Phase, the executive director of the
 44 commission shall attend an executive session of the commission where the executive director shall
 45 present the statement of the facts and summarize the results of the Preliminary Review Phase to the

1 commission and recommend to the commission whether there is cause to undertake an investigation
 2 or whether the commission should instead dismiss the complaint or rescind its motion.

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

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

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

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

21 (b) If the commission makes a finding of cause to undertake an investigation, the commission
 22 shall undertake action in the Investigatory Phase. The commission shall notify the person who is the
 23 subject of the investigation, identify the issues to be examined and confine the investigation to those
 24 issues. If the commission finds reason to expand the investigation, the commission shall move to do
 25 so, record in its minutes the issues to be examined before expanding the scope of its investigation
 26 and formally notify the complainant, if any, and the person who is the subject of the investigation
 27 of the expansion and the scope of the investigation.

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

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

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

42 (A) May be suspended if there is a pending criminal investigation that relates to the issues
 43 arising out of the underlying facts or conduct at issue in the matter before the commission and the
 44 commission determines that it cannot adequately complete its investigation until the pending crimi-
 45 nal investigation is complete;

1 (B) May be suspended if a suit is commenced under ORS 192.680 concerning the same meetings
 2 of a governing body that are the subject of the investigation by the commission, until a final adju-
 3 dication of the suit has been made; *[or]*

4 (C) Are suspended if a court has enjoined the commission from continuing its investigation; **or**

5 **(D) May be extended for a period not to exceed 60 days, upon issuance of an order by the**
 6 **commission to continue the investigation.**

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

9 (A) Dismissal, with or without comment;

10 *[(B) Continuation of the investigation for a period not to exceed 30 days for the purpose of addi-*
 11 *tional fact-finding;]*

12 *[(C)]* (B) Moving to a contested case proceeding;

13 *[(D)]* (C) Entering into a negotiated settlement; or

14 *[(E)]* (D) Taking other appropriate action if justified by the findings.

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

17 (A) A violation of any provision of this chapter or of any rule adopted by the commission under
 18 this chapter; or

19 (B) A violation of any provision of ORS 192.610 to 192.705.

20 (7) A person conducting any inquiry or investigation under this section shall:

21 (a) Conduct the inquiry or investigation in an impartial and objective manner; and

22 (b) Provide to the executive director or the commission all favorable and unfavorable informa-
 23 tion the person collects.

24 (8) The commission shall report the findings of any inquiry or investigation in an impartial
 25 manner. The commission shall report both favorable and unfavorable findings and shall make the
 26 findings available to:

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

28 (b) The appointing authority, if any;

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

30 (d) The appropriate district attorney, if the findings relate to a local public official;

31 (e) The Commission on Judicial Fitness and Disability, if the findings relate to a judge; and

32 (f) The governing body of a public body, if the inquiry or investigation concerns an alleged vi-
 33 olation of ORS 192.610 to 192.705 and the person who is the subject of the inquiry or investigation
 34 is a member of that governing body.

35 (9) Hearings conducted under this chapter must be held before an administrative law judge as-
 36 signed from the Office of Administrative Hearings established under ORS 183.605. The procedure
 37 shall be that for a contested case under ORS chapter 183.

38 (10) The Oregon Government Ethics Commission may not inquire into or investigate any conduct
 39 that occurred more than four years before a complaint is filed or a motion is approved under sub-
 40 section (1) of this section.

41 (11) This section does not prevent the commission and the person alleged to have violated any
 42 provision of this chapter or ORS 192.660 or any rule adopted by the commission under this chapter
 43 from stipulating to a finding of fact concerning the violation and consenting to an appropriate pen-
 44 alty. The commission shall enter an order based on the stipulation and consent.

45 (12) At any time during proceedings conducted under this section, the commission may enter

1 into a negotiated settlement with the person who is the subject of action under this section.

2 (13) As used in this section:

3 (a) "Cause" means that there is a substantial, objective basis for believing that an offense or
4 violation may have been committed and the person who is the subject of an inquiry may have com-
5 mitted the offense or violation.

6 (b) "Governing body" has the meaning given that term in ORS 192.610.

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

11 **SECTION 2.** ORS 171.778 is amended to read:

12 171.778. (1)(a) Any person may file with the Oregon Government Ethics Commission a signed
13 written complaint alleging that there has been a violation of any provision of ORS 171.725 to 171.785
14 or of any rule adopted by the commission under ORS 171.725 to 171.785. The complaint shall state
15 the person's reason for believing that a violation occurred and include any evidence relating to the
16 alleged violation.

17 (b) If at any time the commission has reason to believe that there has been a violation of a
18 provision of ORS 171.725 to 171.785 or of a rule adopted by the commission under ORS 171.725 to
19 171.785, the commission may proceed under this section on its own motion as if the commission had
20 received a complaint.

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

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

28 (c) The commission shall give notice of the complaint or motion under paragraph (a) or (b) of
29 this subsection by mail and by telephone if the person can be reached by telephone. The notice must
30 describe the nature of the alleged violation. The mailed notice must include copies of all materials
31 submitted with a complaint. If the commission will consider a motion to proceed without a com-
32 plaint, the notice must provide copies of all materials that the commission will consider at the
33 hearing on the motion.

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

42 (3) After receiving a complaint or deciding to proceed on its own motion, the commission shall
43 undertake action in the Preliminary Review Phase to determine whether there is cause to undertake
44 an investigation.

45 (4)(a) The Preliminary Review Phase begins on the date the complaint is filed or the date the

1 commission decides to proceed on its own motion and ends on the date the commission determines
2 there is cause to undertake an investigation, dismisses the complaint or rescinds its own motion.
3 The Preliminary Review Phase may not exceed 135 days unless a delay is stipulated to by both the
4 subject person and the commission, with the commission reserving a portion of the delay period to
5 complete its actions.

6 (b) During the Preliminary Review Phase, the commission may seek, solicit or otherwise obtain
7 any books, papers, records, memoranda or other additional information, administer oaths and take
8 depositions necessary to determine whether there is cause to undertake an investigation.

9 (c) The Preliminary Review Phase is confidential. Commission members and staff may acknowl-
10 edge receipt of a complaint but may not make any public comment or publicly disclose any materials
11 relating to a case during the Preliminary Review Phase. A person who intentionally violates this
12 paragraph is subject to a civil penalty in an amount not to exceed \$1,000. Any person aggrieved as
13 a result of a violation of this paragraph by a member of the commission or its staff may file a peti-
14 tion in a court of competent jurisdiction in the county in which the petitioner resides in order to
15 enforce the civil penalty provided in this paragraph.

16 (d) At the conclusion of the Preliminary Review Phase, the commission shall conduct its deliber-
17 ations in executive session. All case related materials and proceedings shall be open to the public
18 after the commission makes a finding of cause to undertake an investigation, dismisses a complaint
19 or rescinds a motion. Prior to the end of the Preliminary Review Phase, the executive director of
20 the commission shall prepare a statement of the facts determined during the phase, including ap-
21 propriate legal citations and relevant authorities. Before presentation to the commission, the exec-
22 utive director's statement shall be reviewed by legal counsel to the commission.

23 (e) The time limit imposed in this subsection and the commission's inquiry are suspended if:

24 (A) There is a pending criminal investigation that relates to the issues arising out of the
25 underlying facts or conduct at issue in the matter before the commission, unless the parties stipulate
26 otherwise; or

27 (B) A court has enjoined the commission from continuing its inquiry.

28 (5)(a) If the commission determines that there is not cause to undertake an investigation, the
29 commission shall dismiss the complaint or rescind its motion and formally enter the dismissal or
30 rescission in its records. The commission shall notify the person who is the subject of the inquiry
31 of the dismissal or rescission. After dismissal or rescission, the commission may not take further
32 action involving the person unless a new and different complaint is filed or action on the
33 commission's own motion is undertaken based on different conduct.

34 (b) If the commission makes a finding of cause to undertake an investigation, the commission
35 shall undertake action in the Investigatory Phase. The commission shall notify the person who is the
36 subject of the investigation, identify the issues to be examined and confine the investigation to those
37 issues. If the commission finds reason to expand the investigation, the commission shall move to do
38 so, record in its minutes the issues to be examined before expanding the scope of its investigation
39 and formally notify the complainant, if any, and the person who is the subject of the investigation
40 of the expansion and the scope of the investigation.

41 (6)(a) The Investigatory Phase begins on the date the commission makes a finding of cause to
42 undertake an investigation and ends on the date the commission dismisses the complaint, rescinds
43 its own motion, issues a settlement order, moves to commence a contested case proceeding or takes
44 other action justified by the findings. The Investigatory Phase may not exceed 180 days unless a
45 delay is stipulated to by both the subject person and the commission, with the commission reserving

1 a portion of the delay period to complete its actions.

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

8 (c) The time limit imposed in this subsection and the commission’s investigation are suspended
 9 if:

10 (A) There is a pending criminal investigation that relates to the issues arising out of the
 11 underlying facts or conduct at issue in the matter before the commission, unless the parties stipulate
 12 otherwise; or

13 (B) A court has enjoined the commission from continuing its investigation.

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

16 (A) Dismissal, with or without comment;

17 (B) Continuation of the investigation for a period not to exceed [30] 60 days for the purpose of
 18 additional fact-finding;

19 (C) Moving to a contested case proceeding;

20 (D) Entering into a negotiated settlement; or

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

22 (e) The commission may move to a contested case proceeding if the commission determines that
 23 the information presented to the commission is sufficient to make a preliminary finding of a violation
 24 of any provision of ORS 171.725 to 171.785 or of any rule adopted by the commission under ORS
 25 171.725 to 171.785.

26 (7) A person conducting any inquiry or investigation under this section shall:

27 (a) Conduct the inquiry or investigation in an impartial and objective manner; and

28 (b) Provide to the commission all favorable and unfavorable information the person collects.

29 (8) The commission shall report the findings of any inquiry or investigation in an impartial
 30 manner. The commission shall report both favorable and unfavorable findings and shall make the
 31 findings available to:

32 (a) The person who is the subject of the inquiry or investigation; and

33 (b) Any employer of the person.

34 (9) Hearings conducted under ORS 171.725 to 171.785 must be held before an administrative law
 35 judge assigned from the Office of Administrative Hearings established under ORS 183.605. The pro-
 36 cedure shall be that for a contested case under ORS chapter 183.

37 (10) The commission may not inquire into or investigate any conduct that occurred more than
 38 four years before a complaint is filed or a motion is approved under subsection (1) of this section.

39 (11) This section does not prevent the commission and the person alleged to have violated any
 40 provision of ORS 171.725 to 171.785 or any rule adopted by the commission under ORS 171.725 to
 41 171.785 from stipulating to a finding of fact concerning the violation and consenting to an appro-
 42 priate penalty. The commission shall enter an order based on the stipulation and consent.

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

45 (13) As used in this section, “cause” and “pending” have the meanings given those terms in ORS

1 244.260.

2 **SECTION 3. The amendments to ORS 171.778 and 244.260 by sections 1 and 2 of this 2025**

3 **Act apply to investigations that:**

4 **(1) Are in the Investigatory Phase on the effective date of this 2025 Act; or**

5 **(2) Begin on or after the effective date of this 2025 Act.**

6
