

# House Bill 2930

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: Applies the conflict of interest laws to people who live in the same house as public officials. (Flesch Readability Score: 65.1).

Applies conflict of interest provisions to members of the household of public officials.

## A BILL FOR AN ACT

1 Relating to conflict of interest requirements; amending ORS 184.612, 244.020 and 293.708.

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

3 **SECTION 1.** ORS 244.020 is amended to read:

4 244.020. As used in this chapter, unless the context requires otherwise:

5 (1) "Actual conflict of interest" means any action or any decision or recommendation by a per-  
6 son acting in a capacity as a public official, the effect of which would be to the private pecuniary  
7 benefit or detriment of the person or [*the person's*] **a relative or member of the household of the**  
8 **person, or** any business with which the person or a relative **or member of the household** of the  
9 person is associated, unless the pecuniary benefit or detriment arises out of circumstances described  
10 in subsection (13) of this section.

11 (2) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise,  
12 association, organization, self-employed individual and any other legal entity operated for economic  
13 gain but excluding any income-producing not-for-profit corporation that is tax exempt under section  
14 501(c) of the Internal Revenue Code with which a public official or a relative **or member of the**  
15 **household** of the public official is associated only as a member or board director or in a  
16 nonremunerative capacity.

17 (3) "Business with which the person is associated" means:

18 (a) Any private business or closely held corporation of which the person or [*the person's*] **a rel-**  
19 **ative or member of the household of the person** is a director, officer, owner or employee, or  
20 agent or any private business or closely held corporation in which the person or [*the person's*] **a**  
21 **relative or member of the household of the person** owns or has owned stock, another form of  
22 equity interest, stock options or debt instruments worth \$1,000 or more at any point in the preceding  
23 calendar year;

24 (b) Any publicly held corporation in which the person or [*the person's*] **a relative or member**  
25 **of the household of the person** owns or has owned \$100,000 or more in stock or another form of  
26 equity interest, stock options or debt instruments at any point in the preceding calendar year;

27 (c) Any publicly held corporation of which the person or [*the person's*] **a relative or member**  
28 **of the household of the person** is a director or officer; or

29 (d) For public officials required to file a statement of economic interest under ORS 244.050, any  
30

**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 business listed as a source of income as required under ORS 244.060 (3).

2 (4) "Candidate" means an individual for whom a declaration of candidacy, nominating petition  
 3 or certificate of nomination to public office has been filed or whose name is printed on a ballot or  
 4 is expected to be or has been presented, with the individual's consent, for nomination or election to  
 5 public office.

6 (5) "Development commission" means any entity that has the authority to purchase, develop,  
 7 improve or lease land or the authority to operate or direct the use of land. This authority must be  
 8 more than ministerial.

9 (6) "First Partner" means the spouse or domestic partner of the Governor, or an individual who  
 10 primarily has a personal relationship with the Governor as determined by the Oregon Government  
 11 Ethics Commission by rule. "First Partner" encompasses any alternative title that the Governor may  
 12 publicly substitute for "First Partner," including, but not limited to, "First Lady," "First Husband"  
 13 or "First Spouse."

14 (7)(a) "Gift" means something of economic value given to a public official, a candidate or a rel-  
 15 ative or member of the household of the public official or candidate:

16 (A) Without valuable consideration of equivalent value, including the full or partial forgiveness  
 17 of indebtedness, which is not extended to others who are not public officials or candidates or the  
 18 relatives or members of the household of public officials or candidates on the same terms and con-  
 19 ditions; or

20 (B) For valuable consideration less than that required from others who are not public officials  
 21 or candidates.

22 (b) "Gift" does not mean:

23 (A) Contributions as defined in ORS 260.005.

24 (B) Gifts from relatives or members of the household of the public official or candidate.

25 (C) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item,  
 26 wall memento or similar item, with a resale value reasonably expected to be less than \$25.

27 (D) Informational or program material, publications or subscriptions related to the recipient's  
 28 performance of official duties.

29 (E) Admission provided to or the cost of food or beverage consumed by a public official, a rel-  
 30 ative of the public official accompanying the public official, a member of the household of the public  
 31 official accompanying the public official or a staff member of the public official accompanying the  
 32 public official, at a reception, meal or meeting held by an organization when the public official re-  
 33 presents state government as defined in ORS 174.111, a local government as defined in ORS 174.116  
 34 or a special government body as defined in ORS 174.117.

35 (F) Reasonable expenses paid by any unit of the federal government, a state or local government,  
 36 a Native American tribe that is recognized by federal law or formally acknowledged by a state, a  
 37 membership organization to which a public body as defined in ORS 174.109 pays membership dues  
 38 or a not-for-profit corporation that is tax exempt under section 501(c)(3) of the Internal Revenue  
 39 Code, for attendance at a convention, fact-finding mission or trip, conference or other meeting if the  
 40 public official is scheduled to deliver a speech, make a presentation, participate on a panel or rep-  
 41 resent state government as defined in ORS 174.111, a local government as defined in ORS 174.116  
 42 or a special government body as defined in ORS 174.117.

43 (G) Contributions made to a legal expense trust fund established under ORS 244.209 for the  
 44 benefit of the public official.

45 (H) Reasonable food, travel or lodging expenses provided to a public official, a relative of the

1 public official accompanying the public official, a member of the household of the public official ac-  
 2 companying the public official or a staff member of the public official accompanying the public offi-  
 3 cial, when the public official is representing state government as defined in ORS 174.111, a local  
 4 government as defined in ORS 174.116 or a special government body as defined in ORS 174.117:

5 (i) On an officially sanctioned trade-promotion or fact-finding mission; or

6 (ii) In officially designated negotiations, or economic development activities, where receipt of the  
 7 expenses is approved in advance.

8 (I) Food or beverage consumed by a public official acting in an official capacity:

9 (i) In association with the review, approval, execution of documents or closing of a borrowing,  
 10 investment or other financial transaction, including any business agreement between state govern-  
 11 ment as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special govern-  
 12 ment body as defined in ORS 174.117 and a private entity or public body as defined in ORS 174.109;

13 (ii) While engaged in due diligence research or presentations by the office of the State Treasurer  
 14 related to an existing or proposed investment or borrowing; or

15 (iii) While engaged in a meeting of an advisory, governance or policy-making body of a corpo-  
 16 ration, partnership or other entity in which the office of the State Treasurer has invested moneys.

17 (J) Waiver or discount of registration expenses or materials provided to a public official or  
 18 candidate at a continuing education event that the public official or candidate may attend to satisfy  
 19 a professional licensing requirement.

20 (K) Expenses provided by one public official to another public official for travel inside this state  
 21 to or from an event that bears a relationship to the receiving public official's office and at which  
 22 the official participates in an official capacity.

23 (L) Food or beverage consumed by a public official or candidate at a reception where the food  
 24 or beverage is provided as an incidental part of the reception and no cost is placed on the food or  
 25 beverage.

26 (M) Entertainment provided to a public official or candidate or a relative or member of the  
 27 household of the public official or candidate that is incidental to the main purpose of another event.

28 (N) Entertainment provided to a public official or a relative or member of the household of the  
 29 public official where the public official is acting in an official capacity while representing state  
 30 government as defined in ORS 174.111, a local government as defined in ORS 174.116 or a special  
 31 government body as defined in ORS 174.117 for a ceremonial purpose.

32 (O) Anything of economic value offered to or solicited or received by a public official or candi-  
 33 date, or a relative or member of the household of the public official or candidate:

34 (i) As part of the usual and customary practice of the person's private business, or the person's  
 35 employment or position as a volunteer with a private business, corporation, partnership,  
 36 proprietorship, firm, enterprise, franchise, association, organization, not-for-profit corporation or  
 37 other legal entity operated for economic value; and

38 (ii) That bears no relationship to the public official's or candidate's holding of, or candidacy for,  
 39 the official position or public office.

40 (P) Reasonable expenses paid to a public school employee for accompanying students on an ed-  
 41 ucational trip.

42 (8) "Honorarium" means a payment or something of economic value given to a public official in  
 43 exchange for services upon which custom or propriety prevents the setting of a price. Services in-  
 44 clude, but are not limited to, speeches or other services rendered in connection with an event.

45 (9) "Income" means income of any nature derived from any source, including, but not limited to,

1 any salary, wage, advance, payment, dividend, interest, rent, honorarium, return of capital,  
 2 forgiveness of indebtedness, or anything of economic value.

3 (10) "Legislative or administrative interest" means an economic interest, distinct from that of  
 4 the general public, in:

5 (a) Any matter subject to the decision or vote of the public official acting in the public official's  
 6 capacity as a public official; or

7 (b) Any matter that would be subject to the decision or vote of the candidate who, if elected,  
 8 would be acting in the capacity of a public official.

9 (11) "Member of the household" means any person who resides with the public official or can-  
 10 didate.

11 (12) "Planning commission" means a county planning commission created under ORS chapter 215  
 12 or a city planning commission created under ORS chapter 227.

13 (13) "Potential conflict of interest" means any action or any decision or recommendation by a  
 14 person acting in a capacity as a public official, the effect of which could be to the private pecuniary  
 15 benefit or detriment of the person or *[the person's]* a relative **or member of the household of the**  
 16 **person**, or a business with which the person or the *[person's]* relative **or member of the household**  
 17 **of the person** is associated, unless the pecuniary benefit or detriment arises out of the following:

18 (a) An interest or membership in a particular business, industry, occupation or other class re-  
 19 quired by law as a prerequisite to the holding by the person of the office or position.

20 (b) Any action in the person's official capacity which would affect to the same degree a class  
 21 consisting of all inhabitants of the state, or a smaller class consisting of an industry, occupation or  
 22 other group including one of which or in which the person, *or the person's]* **or a relative or mem-**  
 23 **ber of the household of the person, or a** business with which the person or the *[person's]* relative  
 24 **or member of the household of the person** is associated, is a member or is engaged.

25 (c) Membership in or membership on the board of directors of a nonprofit corporation that is  
 26 tax-exempt under section 501(c) of the Internal Revenue Code.

27 (14) "Public office" has the meaning given that term in ORS 260.005.

28 (15) "Public official" means the First Partner and any person who, when an alleged violation  
 29 of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other  
 30 public body as defined in ORS 174.109 as an elected official, appointed official, employee or agent,  
 31 irrespective of whether the person is compensated for the services.

32 (16) "Relative" means:

33 (a) The spouse, parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the  
 34 public official or candidate;

35 (b) The parent, stepparent, child, sibling, stepsibling, son-in-law or daughter-in-law of the spouse  
 36 of the public official or candidate;

37 (c) Any individual for whom the public official or candidate has a legal support obligation;

38 (d) Any individual for whom the public official provides benefits arising from the public official's  
 39 public employment or from whom the public official receives benefits arising from that individual's  
 40 employment; or

41 (e) Any individual from whom the candidate receives benefits arising from that individual's em-  
 42 ployment.

43 (17) "Statement of economic interest" means a statement as described by ORS 244.060 or 244.070.

44 (18) "Zoning commission" means an entity to which is delegated at least some of the discre-  
 45 tionary authority of a planning commission or governing body relating to zoning and land use mat-

1 ters.

2 **SECTION 2.** ORS 184.612 is amended to read:

3 184.612. (1) There is established the Oregon Transportation Commission consisting of five mem-  
4 bers appointed by the Governor, subject to confirmation by the Senate pursuant to Article III, sec-  
5 tion 4, of the Oregon Constitution. A member serves at the pleasure of the Governor.

6 (2) The Governor shall appoint members of the commission in compliance with all of the fol-  
7 lowing:

8 (a) Members shall be appointed with consideration of the different geographic regions of the  
9 state with one member being a resident of the area east of the Cascade Range.

10 (b) Not more than three members who belong to one political party. Party affiliation shall be  
11 determined by the appropriate entry on official election registration cards.

12 (3) At the time of appointment, a member or a relative **or member of the household** of a  
13 member, as **those terms are** defined in ORS 244.020, may not have an actual conflict of interest,  
14 as defined in ORS 244.020.

15 (4) Notwithstanding ORS 244.120 (2), when met with a potential or actual conflict of interest,  
16 as those terms are defined in ORS 244.020, a member shall announce publicly the nature of the po-  
17 tential or actual conflict and:

18 (a) Except as provided in paragraph (b) of this subsection, refrain from participating as a public  
19 official in any discussion or debate on the issue out of which the potential or actual conflict arises  
20 or from voting on the issue.

21 (b) If the member's vote is necessary to meet a requirement of a minimum number of votes to  
22 take official action, be eligible to vote, but not to participate as a public official in any discussion  
23 or debate on the issue out of which the potential or actual conflict arises.

24 (5) The term of office of each member is four years. Before the expiration of the term of a  
25 member, the Governor shall appoint a successor whose term begins on July 1 next following. A  
26 member is eligible for reappointment. In case of a vacancy for any cause, the Governor shall appoint  
27 a person to fill the office for the unexpired term.

28 (6) The Governor shall appoint one of the members as chairperson. The chairperson shall ap-  
29 point one of the other members as vice chairperson. The chairperson and vice chairperson shall  
30 have such terms, duties and powers as the Oregon Transportation Commission determines are nec-  
31 essary for the performance of such offices.

32 (7) A majority of the members of the commission constitutes a quorum. If a quorum is present  
33 at a meeting, the commission may take action by an affirmative vote by a majority of the members  
34 who are present. An individual member may not exercise individually any administrative authority  
35 with respect to the Department of Transportation.

36 (8) The commission shall meet at least quarterly, at a time and place determined by the com-  
37 mission. The commission shall also meet at such other times and places as are specified by the call  
38 of the chairperson or of a majority of the commission.

39 (9) A vacancy does not impair the right of the remaining members to exercise all the powers  
40 of the commission, except that three members of the commission must agree in the selection, vaca-  
41 tion or abandonment of state highways, and in case the members are unable to agree the Governor  
42 shall have the right to vote as a member of the commission.

43 (10) The commission shall keep complete and accurate records of all the meetings, transactions  
44 and business of the commission at the office of the department.

45 (11) The commission may provide an official seal.

1 (12) The commission may hire staff the commission deems necessary to assist the commission in  
2 carrying out its duties. The staff shall be considered employees of the department for purposes of  
3 the State Personnel Relations Law under ORS chapter 240.

4 (13) A member of the commission is entitled to compensation and expenses as provided by ORS  
5 292.495.

6 **SECTION 3.** ORS 293.708 is amended to read:

7 293.708. (1) As used in this section:

8 (a) "Business" has the meaning given that term in ORS 244.020.

9 (b) "Business with which the person is associated" has the meaning given that term in ORS  
10 244.020.

11 **(c) "Member of the household" has the meaning given that term in ORS 244.020.**

12 [(c)] **(d) "Relative" has the meaning given that term in ORS 244.020.**

13 (2) When a person who is a member of the Oregon Investment Council becomes aware that  
14 action on a matter pending before the council might lead to private pecuniary benefit or detriment  
15 to the person, to a relative **or member of the household** of the person or to a business with which  
16 the person or a relative **or member of the household** of the person is associated, the member shall  
17 notify in writing the State Treasurer or the Deputy State Treasurer that any action, decision or  
18 recommendation by the member might constitute an actual or potential conflict of interest. The  
19 member shall provide the notice not later than three business days after the member becomes aware  
20 of the possibility of an actual or potential conflict.

21 (3) Subsection (2) of this section does not apply if the pecuniary benefit or detriment arises out  
22 of circumstances described in ORS 244.020 (13).

23 (4) Complaints of violations of this section may be made to the Oregon Government Ethics  
24 Commission for review and investigation as provided by ORS 244.260 and for possible imposition of  
25 civil penalties as provided by ORS 244.350 or 244.360.

26 (5) Nothing in this section excuses a member of the council from compliance with ORS 244.120.  
27