

HB 2692-4
(LC 1523)
5/21/25 (MNJ/ps)

Requested by Representative SCHARF

**PROPOSED AMENDMENTS TO
HOUSE BILL 2692**

On page 1 of the printed bill, delete lines 5 through 31 and delete pages 2 through 6.

On page 7, delete lines 1 through 25 and insert:

“SECTION 1. ORS 183.333 is amended to read:

“183.333. (1) The Legislative Assembly finds and declares that it is the policy of this state that whenever possible the public be involved in the development of public policy by agencies and in the drafting of rules. The Legislative Assembly encourages agencies to seek public input to the maximum extent possible before giving notice of intent to adopt a rule. The agency may appoint an advisory committee or use any other means of obtaining public views that will assist the agency in drafting the rule. *[The membership of an advisory committee appointed under this subsection must represent the interests of persons and communities likely to be affected by the rule.]*

“[(2) Any agency in its discretion may develop a list of interested parties and inform those parties of any issue that may be the subject of rulemaking and invite the parties to make comments on the issue.]

“(2) At least 14 days before an agency gives notice of intent to adopt a permanent rule that will result in new requirements, changes to compliance obligations or new or increased costs for persons regulated by the agency, the agency shall post a public request for interest in a

1 **advisory committee for rule development. The agency shall send the**
2 **notice to the list of interested parties developed under subsection (11)**
3 **of this section and shall post the notice on the agency’s website. If the**
4 **agency receives a request for appointment of an advisory committee**
5 **from a person regulated by the agency or from an association of per-**
6 **sons regulated by the agency during the 14-day period, the agency shall**
7 **appoint an advisory committee. If the agency does not receive a re-**
8 **quest to appoint an advisory committee from a person regulated by the**
9 **agency or from an association of persons regulated by the agency**
10 **during the 14-day period, the agency may proceed with the rulemaking**
11 **process without appointing an advisory committee.**

12 **“(3) The membership of an advisory committee appointed under this**
13 **section must represent the interests of persons and communities likely**
14 **to be affected by the rule, and must include representatives of regu-**
15 **lated entities of the agency and the program within the agency**
16 **undertaking the rulemaking. The advisory committee may also include**
17 **representatives from unregulated entities but the number of repre-**
18 **sentatives of unregulated entities may not exceed the number of rep-**
19 **resentatives of regulated entities.**

20 **“(4) An advisory committee appointed under this section may meet**
21 **in person or virtually, but meetings of the advisory committee must**
22 **be open to the public and the advisory committee process must include**
23 **an opportunity for public comment.**

24 **“[(3)] (5) If an agency appoints an advisory committee for consideration**
25 **of a rule under [subsection (1) of] this section, the agency shall seek the**
26 **committee’s recommendations on whether the rule will have a fiscal impact,**
27 **what the extent of that impact will be and whether the rule will have a**
28 **significant adverse impact on small businesses. If the committee indicates**
29 **that the rule will have a significant adverse impact on small businesses, the**
30 **agency shall seek the committee’s recommendations on compliance with ORS**

1 183.540.

2 “[(4)] (6) An agency shall consider an advisory committee’s recommen-
3 dations provided under subsection [(3)] (5) of this section in preparing the
4 statement of fiscal impact required by ORS 183.335 (2)(b)(E).

5 “[(5)] (7) If an agency does not appoint an advisory committee for con-
6 sideration of a permanent rule under [*subsection (1) of*] this section and 10
7 or more persons likely to be affected by the rule object to the agency’s
8 statement of fiscal impact as required by ORS 183.335 (2)(b)(E) or an associ-
9 ation with at least 10 members likely to be affected by the rule objects to
10 the statement, the agency shall appoint a fiscal impact advisory committee
11 to provide recommendations on whether the rule will have a fiscal impact
12 and what the extent of that impact will be. The membership of the fiscal
13 impact advisory committee must represent the interests of persons and com-
14 munities likely to be affected by the rule. An objection under this subsection
15 must be made not later than 14 days after the notice required by ORS 183.335
16 (1) is given. If the agency determines that the statement does not adequately
17 reflect the rule’s fiscal impact, the agency shall extend the period for sub-
18 mission of data or views under ORS 183.335 (3)(a) by at least 20 days. The
19 agency shall include any recommendations from the committee in the record
20 maintained by the agency for the rule.

21 “[(6)] (8) An agency may appoint the Small Business Rules Advisory
22 Committee established in ORS 183.407 as the advisory committee or fiscal
23 impact advisory committee for purposes of this section.

24 “[(7)] (9) Subsection [(5)] (7) of this section does not apply to any rule
25 adopted by an agency to comply with a judgment or a settlement of a judicial
26 proceeding.

27 “[(8)] (10) If an agency is required by law to appoint an advisory com-
28 mittee or a fiscal impact advisory committee under this section, the agency
29 may not appoint an officer, employee or other agent of the agency to serve
30 as a member of the advisory committee or fiscal impact advisory committee.

1 “(11) Any agency in its discretion may develop a list of interested
2 parties and inform those parties of any issue that may be the subject
3 of rulemaking and invite the parties to make comments on the issue.

4 “**SECTION 2.** ORS 183.335 is amended to read:

5 “183.335. (1) Prior to the adoption, amendment or repeal of any rule, the
6 agency shall give notice of its intended action:

7 “(a) In the manner established by rule adopted by the agency under ORS
8 183.341 (4), which provides a reasonable opportunity for interested persons
9 to be notified of the agency’s proposed action;

10 “(b) In the bulletin referred to in ORS 183.360 at least 21 days prior to
11 the *[effective]* date **the rule is filed with the Secretary of State as pro-**
12 **vided in ORS 183.355;**

13 “(c) At least 28 days before the *[effective]* date **the rule is filed with the**
14 **Secretary of State as provided in ORS 183.355,** to persons who have re-
15 quested notice pursuant to subsection (8) of this section; and

16 “(d) Delivered only by electronic mail, at least 49 days before the
17 *[effective]* date **the rule is filed with the Secretary of State as provided**
18 **in ORS 183.355,** to the persons specified in subsection (15) of this section.

19 “(2)(a) The notice required by subsection (1) of this section must include:

20 “(A) A caption of not more than 15 words that reasonably identifies the
21 subject matter of the agency’s intended action. The agency shall include the
22 caption on each separate notice, statement, certificate or other similar doc-
23 ument related to the intended action.

24 “(B) An objective, simple and understandable statement summarizing the
25 subject matter and purpose of the intended action in sufficient detail to in-
26 form a person that the person’s interests may be affected, and the time, place
27 and manner in which interested persons may present their views on the in-
28 tended action.

29 “(b) The agency shall include with the notice of intended action given
30 under subsection (1) of this section:

1 “(A) A citation of the statutory or other legal authority relied upon and
2 bearing upon the promulgation of the rule;

3 “(B) A citation of the statute or other law the rule is intended to imple-
4 ment;

5 “(C) A statement of the need for the rule [*and a*], **including, if applica-**
6 **ble, a detailed description of the problem the agency is attempting to**
7 **solve with the rule and a detailed** statement of how the rule is intended
8 to meet the need **or solve the problem;**

9 “(D) A list of the principal documents, reports or studies, if any, prepared
10 by or relied upon by the agency in considering the need for and in preparing
11 the rule, and a statement of the location at which those documents are
12 available for public inspection. The list may be abbreviated if necessary, and
13 if so abbreviated there shall be identified the location of a complete list;

14 “(E)(i) A statement of fiscal impact identifying state agencies, units of
15 local government and the public that may be economically affected by the
16 adoption, amendment or repeal of the rule and an estimate of that economic
17 impact on state agencies, units of local government and the public. In con-
18 sidering the economic effect of the proposed action on the public, the agency
19 shall utilize available information to project any significant economic effect
20 of that action on businesses [*which shall include a cost of compliance effect*
21 *on small businesses affected.*] **and small businesses, including:**

22 “(I) **An estimate of the number of businesses and small businesses**
23 **subject to the proposed rule and identification of the types of busi-**
24 **nesses and industries subject to the proposed rule;**

25 “(II) **A description of the projected reporting, recordkeeping and**
26 **other administrative activities required for compliance with the pro-**
27 **posed rule, including costs of professional services;**

28 “(III) **An identification of equipment, supplies, labor and increased**
29 **administration required for compliance with the proposed rule;**

30 “(IV) **A summary of possible opportunity costs associated with**

1 **compliance with the proposed rule, which may be achieved by pub-**
2 **lishing comments on opportunity costs that were provided to the**
3 **agency in the fiscal impact statement process; and**

4 **“(V) A description of the manner in which the agency proposing the**
5 **rule involved small businesses in the development of the rule; and**

6 **“(ii) For an agency specified in ORS 183.530, the statement of fiscal im-**
7 **pact [shall] must also include a housing cost impact statement as described**
8 **in ORS 183.534;**

9 **“(F) A statement identifying how adoption of the rule will affect racial**
10 **equity in this state;**

11 **“(G) If an advisory committee is not appointed under the provisions of**
12 **ORS 183.333, an explanation as to why no advisory committee was used to**
13 **assist the agency in drafting the rule; and**

14 **“(H) A description of alternative options the agency considered in**
15 **developing the rule and a request for public comment on whether other**
16 **options should be considered for achieving the rule’s substantive goals while**
17 **reducing the negative economic impact of the rule on business.**

18 **“(c) The Secretary of State may omit the information submitted under**
19 **paragraph (b) of this subsection from publication in the bulletin referred to**
20 **in ORS 183.360.**

21 **“(d) When providing notice of an intended action under subsection (1)(c)**
22 **of this section, the agency shall provide a copy of the rule that the agency**
23 **proposes to adopt, amend or repeal, or an explanation of how the person may**
24 **acquire a copy of the rule. The copy of an amended rule shall show all**
25 **changes to the rule by striking through material to be deleted and under-**
26 **lining all new material, or by any other method that clearly shows all new**
27 **and deleted material.**

28 **“(3)(a) When an agency proposes to adopt, amend or repeal a rule, it shall**
29 **give interested persons reasonable opportunity to submit data or views. The**
30 **agency shall consider fully any written or oral submission. Opportunity**

1 for oral hearing shall be granted upon request received from 10 persons or
2 from an association having not less than 10 members before the earliest date
3 that the rule could [*become effective*] **be adopted, amended or repealed** af-
4 ter the giving of notice pursuant to subsection (1) of this section. An agency
5 holding a hearing upon a request made under this subsection shall:

6 “(A) Give notice of the hearing at least 21 days before the hearing to the
7 person who has requested the hearing, to persons who have requested notice
8 pursuant to subsection (8) of this section, **to the list of interested parties**
9 **developed under ORS 183.333 (11)** and to the persons specified in subsection
10 (15) of this section. [*The agency shall publish notice of the hearing in the*
11 *bulletin referred to in ORS 183.360 at least 14 days before the hearing. The*
12 *agency shall consider fully any written or oral submission.*]

13 “(B) **Post the notice on the agency’s website and on the Oregon**
14 **transparency website at least 21 days before the hearing.**

15 “(C) **Publish notice of the hearing in the bulletin referred to in ORS**
16 **183.360 at least 15 days before the hearing. An agency that fails to**
17 **provide the 15-day notice required under this subparagraph shall re-**
18 **schedule the hearing and provide proper notice.**

19 “(b) If an agency is required to conduct an oral hearing under paragraph
20 (a) of this subsection, and the rule for which the hearing is to be conducted
21 applies only to a limited geographical area within this state, or affects only
22 a limited geographical area within this state, the hearing shall be conducted
23 within the geographical area at the place most convenient for the majority
24 of the residents within the geographical area. At least [*14*] **15** days before a
25 hearing conducted under this paragraph, the agency shall publish notice of
26 the hearing in the bulletin referred to in ORS 183.360 and in a newspaper
27 of general circulation published within the geographical area that is affected
28 by the rule or to which the rule applies. If a newspaper of general circulation
29 is not published within the geographical area that is affected by the rule or
30 to which the rule applies, the publication shall be made in the newspaper

1 of general circulation published closest to the geographical area.

2 “(c) Notwithstanding paragraph (a) of this subsection, the Department of
3 Corrections and the State Board of Parole and Post-Prison Supervision may
4 adopt rules limiting participation by adults in custody in the proposed
5 adoption, amendment or repeal of any rule to written submissions.

6 “(d) If requested by at least five persons before the earliest date that the
7 rule could [*become effective*] **be adopted, amended or repealed** after the
8 agency gives notice pursuant to subsection (1) of this section, the agency
9 shall provide a statement that identifies the objective of the rule and a
10 statement of how the agency will subsequently determine whether the rule
11 is in fact accomplishing that objective.

12 “(e) An agency that receives data or views concerning proposed rules from
13 interested persons shall maintain a record of the data or views submitted.
14 The record shall contain:

15 “(A) All written materials submitted to an agency in response to a notice
16 of intent to adopt, amend or repeal a rule.

17 “(B) A recording or summary of oral submissions received at hearings
18 held for the purpose of receiving those submissions.

19 “(C) Any public comment received in response to the request made under
20 subsection (2)(b)(H) of this section and the agency’s response to that com-
21 ment.

22 “(D) Any statements provided by the agency under paragraph (d) of this
23 subsection.

24 “(4) Upon request of an interested person received before the earliest date
25 that the rule could [*become effective*] **be adopted, amended or repealed** af-
26 ter the giving of notice pursuant to subsection (1) of this section, the agency
27 shall postpone the date of its intended action no less than 21 nor more than
28 90 days in order to allow the requesting person an opportunity to submit
29 data, views or arguments concerning the proposed action. Nothing in this
30 subsection shall preclude an agency from adopting a temporary rule pursuant

1 to subsection (5) of this section.

2 “(5) Notwithstanding subsections (1) to (4) of this section, an agency may
3 adopt, amend or suspend a rule without prior notice or hearing or upon any
4 abbreviated notice and hearing that it finds practicable, if the agency pre-
5 pares:

6 “(a) A statement of its findings that its failure to act promptly will result
7 in serious prejudice to the public interest or the interest of the parties con-
8 cerned and the specific reasons for its findings of prejudice;

9 “(b) A citation of the statutory or other legal authority relied upon and
10 bearing upon the promulgation of the rule;

11 “(c) A statement of the need for the rule and a statement of how the rule
12 is intended to meet the need;

13 “(d) A list of the principal documents, reports or studies, if any, prepared
14 by or relied upon by the agency in considering the need for and in preparing
15 the rule, and a statement of the location at which those documents are
16 available for public inspection; and

17 “(e) For an agency specified in ORS 183.530, a housing cost impact state-
18 ment as defined in ORS 183.534.

19 “(6)(a) A rule adopted, amended or suspended under subsection (5) of this
20 section is temporary and may be effective for a period of not longer than 180
21 days. The adoption of a rule under this subsection does not preclude the
22 subsequent adoption of an identical rule under subsections (1) to (4) of this
23 section.

24 “(b) A rule temporarily suspended shall regain effectiveness upon expira-
25 tion of the temporary period of suspension unless the rule is repealed under
26 subsections (1) to (4) of this section.

27 “(7) Notwithstanding subsections (1) to (4) of this section, an agency may
28 amend a rule without prior notice or hearing if the amendment is solely for
29 the purpose of:

30 “(a) Changing the name of an agency by reason of a name change pre-

1 scribed by law;

2 “(b) Changing the name of a program, office or division within an agency
3 as long as the change in name does not have a substantive effect on the
4 functions of the program, office or division;

5 “(c) Correcting spelling;

6 “(d) Correcting grammatical mistakes in a manner that does not alter the
7 scope, application or meaning of the rule;

8 “(e) Correcting statutory or rule references;

9 “(f) Correcting addresses or telephone numbers referred to in the rules;
10 or

11 “(g) Changing a term or phrase in order to conform with a change pre-
12 scribed by law.

13 “(8)(a) Any person may request in writing that an agency send to the
14 person copies of the agency’s notices of intended action issued under sub-
15 section (1) of this section. The person must provide an address where the
16 person elects to receive notices. The address provided may be a postal mail-
17 ing address or, if the agency provides notice by electronic mail, may be an
18 electronic mailing address.

19 “(b) A request under this subsection must indicate that the person re-
20 quests one of the following:

21 “(A) The person may request that the agency mail paper copies of the
22 proposed rule and other information required by subsection (2) of this section
23 to the postal mailing address.

24 “(B) If the agency posts notices of intended action on a website, the per-
25 son may request that the agency mail the information required by subsection
26 (2)(a) of this section to the postal mailing address with a reference to the
27 website where electronic copies of the proposed rule and other information
28 required by subsection (2) of this section are posted.

29 “(C) The person may request that the agency electronically mail the in-
30 formation required by subsection (2)(a) of this section to the electronic

1 mailing address, and either provide electronic copies of the proposed rule and
2 other information required by subsection (2) of this section or provide a
3 reference to a website where electronic copies of the proposed rule and other
4 information required by subsection (2) of this section are posted.

5 “(c) Upon receipt of any request under this subsection, the agency shall
6 acknowledge the request, establish a mailing list and maintain a record of
7 all mailings made pursuant to the request. Agencies may establish proce-
8 dures for establishing the mailing lists and keeping the mailing lists current.
9 Agencies by rule may establish fees necessary to defray the costs of mailings
10 and maintenance of the lists.

11 “(d) Members of the Legislative Assembly who receive notices under
12 subsection (15) of this section may request that an agency furnish paper
13 copies of the notices.

14 “(9) This section does not apply to rules establishing an effective date for
15 a previously effective rule or establishing a period during which a provision
16 of a previously effective rule will apply.

17 “(10) This section does not apply to ORS 279.835 to 279.855, 279A.140 to
18 279A.161, 279A.250 to 279A.290, 279A.990, 279B.050 to 279B.085, 279B.200 to
19 279B.240, 279B.270, 279B.275, 279B.280, 279C.360, 279C.365, 279C.370, 279C.375,
20 279C.380, 279C.385, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.550 to
21 279C.570, 279C.580, 279C.585, 279C.590, 279C.600 to 279C.625, 279C.650 to
22 279C.670 and 279C.800 to 279C.870 relating to public contracts and purchas-
23 ing.

24 “(11)(a) Except as provided in paragraph (c) of this subsection, a rule is
25 not valid unless adopted in substantial compliance with the provisions of this
26 section in effect on the date that the notice required under subsection (1)
27 of this section is delivered to the Secretary of State for the purpose of pub-
28 lication in the bulletin referred to in ORS 183.360.

29 “(b) In addition to all other requirements with which rule adoptions must
30 comply, a rule other than a rule amended for a purpose described in sub-

1 section (7) of this section is not valid if the rule has not been submitted to
2 the Legislative Counsel in the manner required by ORS 183.355 and 183.715.

3 “(c) A rule is not subject to judicial review or other challenge by reason
4 of failing to comply with subsection (2)(a)(A) of this section.

5 “(12)(a) Notwithstanding the provisions of subsection (11) of this section,
6 but subject to paragraph (b) of this subsection, an agency may correct its
7 failure to substantially comply with the requirements of subsections (2) and
8 (5) of this section in adoption of a rule by an amended filing, as long as the
9 noncompliance did not substantially prejudice the interests of persons to be
10 affected by the rule.

11 “(b) An agency may use an amended filing to correct a failure to include
12 a fiscal impact statement in a notice of intended action, as required by sub-
13 section (2)(b)(E) of this section, or to correct an inaccurate fiscal impact
14 statement, only if the agency developed the fiscal impact statement with the
15 assistance of an advisory committee or fiscal impact advisory committee ap-
16 pointed under ORS 183.333.

17 “(13) Unless otherwise provided by statute, the adoption, amendment or
18 repeal of a rule by an agency need not be based upon or supported by an
19 evidentiary record.

20 “(14) When an agency has established a deadline for comment on a pro-
21 posed rule under the provisions of subsection (3)(a) of this section, the
22 agency may not extend that deadline for another agency or person unless the
23 extension applies equally to all interested agencies and persons. An agency
24 shall not consider any submission made by another agency after the final
25 deadline has passed.

26 “(15) The notices required under subsections (1) and (3) of this section
27 must be given by the agency to the following persons:

28 “(a) If the proposed adoption, amendment or repeal results from legis-
29 lation that was passed within two years before notice is given under sub-
30 section (1) of this section, notice shall be given to the legislator who

1 introduced the bill that subsequently was enacted into law, and to the chair
2 or cochair of all committees that reported the bill out, except for those
3 committees whose sole action on the bill was referral to another committee.

4 “(b) If the proposed adoption, amendment or repeal does not result from
5 legislation that was passed within two years before notice is given under
6 subsection (1) of this section, notice shall be given to the chair or cochair
7 of any interim or session committee with authority over the subject matter
8 of the rule.

9 “(c) If notice cannot be given under paragraph (a) or (b) of this sub-
10 section, notice shall be given to the Speaker of the House of Representatives
11 and to the President of the Senate who are in office on the date the notice
12 is given.

13 “(16)(a) Upon the request of a member of the Legislative Assembly or of
14 a person who would be affected by a proposed adoption, amendment or re-
15 peal, the committees receiving notice under subsection (15) of this section
16 shall review the proposed adoption, amendment or repeal for compliance with
17 the legislation from which the proposed adoption, amendment or repeal re-
18 sults.

19 “(b) The committees shall submit their comments on the proposed
20 adoption, amendment or repeal to the agency proposing the adoption,
21 amendment or repeal.

22 “(17) **If the statement of fiscal impact required under subsection**
23 **(2)(b)(E) of this section indicates that the proposed adoption, amend-**
24 **ment or repeal may have an economic impact of more than \$250,000**
25 **on any individual or more than \$5 million on the public in total in a**
26 **single biennium, the agency shall submit a report in the manner de-**
27 **scribed in ORS 192.245 to the Joint Committee on Ways and Means.”.**

28 In line 42, delete the boldfaced material.

29 On page 11, delete lines 34 through 36 and insert:

30 **“SECTION 7. The Oregon Department of Administrative Services,**

1 **the Department of Justice and the Office of Small Business Assistance**
2 **shall collaborate to publish a guide to administrative rules designed**
3 **for the general public.”.**

4