House Bill 3321

Sponsored by Representative EVANS; Representative NOSSE

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.

Requires nonprofit corporations that meet certain requirements, including receipt of public funds, to comply with open meetings law and public records law, to post copy of corporation’s proposed annual budget to corporation’s public website and to submit to and cooperate witheditors note

Becomes operative January 1, 2018.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to nonprofit corporations that receive public funds; and declaring an emergency.

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

SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 65.

SECTION 2. (1) As used in this section:

(a) “Public body” has the meaning given that term in ORS 174.109.

(b) “Public funds” means funds that an officer or employee of this state or of a political subdivision or public or municipal corporation of this state has custody of or controls by law or by virtue of the officer’s or employee’s office.

(2) A corporation that engages in business in this state is subject to the requirements of subsection (3) of this section if the corporation:

(a) Has gross annual revenues of more than $100,000 or has 25 or more full-time or part-time employees;

(b) Receives public funds in any amount or receives a public benefit in the form of a tax credit or tax deduction that is available only to a corporation organized under this chapter; and

(c)(A) Performs a governmental function by means of a contract or another written delegation of a governmental function; or

(B) Sets or implements a policy that controls or influences an expenditure, disbursement or distribution of public funds or that designates a recipient of public funds.

(3)(a) A corporation described in subsection (2) of this section shall:

(A) Hold meetings of the corporation’s board of directors in accordance with ORS 192.610 to 192.690.

(B) Post a copy of the corporation’s proposed annual budget on the corporation’s public website at least 30 days before the corporation takes action to adopt the budget. The budget must identify the source of any public funds in the budget and the expenditures the corporation proposes to make from the public funds.

(C) Submit to and cooperate with audits of the corporation’s finances conducted by the
Secretary of State or the public body that provided the corporation with public funds or by
designees of the Secretary of State or the public body.

(D) Make records that the corporation keeps under ORS 65.771 available in accordance
with ORS 192.410 to 192.505, except that the corporation may redact from a record informa-
tion that personally identifies a member or employee of the corporation, other than by first
and last name, before disclosing the record.

(b) A member of the board of directors of a corporation described in subsection (2) of this
section, or an officer or employee of the corporation, in addition to and not in lieu of pro-
visions in this chapter that govern the board member’s, officer’s or employee’s conduct with
respect to the corporation, including but not limited to ORS 65.357, 65.361, 65.364, 65.367,
65.369 and 65.377, is subject to the provisions of ORS chapter 244. To the extent that a con-
flict exists between a provision of ORS chapter 65 described in this paragraph and a provision
of ORS chapter 244, the provisions of ORS chapter 65 described in this paragraph control.

(4) A public body that provides public funds or a public benefit of the type described in
subsection (2)(b) of this section to a corporation shall monitor the corporation’s compliance
with subsection (3) of this section. The public body may designate or enter into an agreement
with another public body to carry out the public body’s responsibilities under this subsection.

(5)(a) A corporation described in subsection (2) of this section that does not comply with
the provisions of subsection (3) of this section, at the discretion of the public body that
provided the corporation with public funds or a public benefit described in subsection (2)(b)
of this section, is subject to:

(A) A demand for repayment of public funds or the equivalent value of a public benefit
described in subsection (2)(b) of this section that the corporation received from a public body;
and

(B) A denial of public funds or a public benefit described in subsection (2)(b) of this sec-
tion for a period of 10 years.

(b) A public body that provides public funds or a public benefit described in subsection
(2)(b) of this section to a corporation may enter into an assurance of voluntary compliance
with the corporation before imposing a sanction described in paragraph (a) of this subsection.

(c) The Secretary of State shall, under ORS 65.647, administratively dissolve a corpo-
ration that shows a pattern of repeated violations of subsection (3) of this section or that
fails to comply with the terms of an assurance of voluntary compliance that a public body
negotiates with the corporation.

(d) A member of the board of directors or an officer of a corporation that the Secretary
of State administratively dissolves under paragraph (c) of this subsection may not serve as
a member of the board of directors or an officer of another corporation for a period of not
less than 10 years. The Secretary of State by rule shall specify procedures for enforcing the
 provision described in this paragraph.

SECTION 3. (1) Section 2 of this 2017 Act becomes operative January 1, 2018.

(2) The Secretary of State and a public body that provides public funds or a public benefit
described in section 2 (2)(b) of this 2017 Act may adopt, as appropriate, rules, resolutions or
ordinances before the operative date specified in subsection (1) of this section that are nec-
essary to enable the Secretary of State or the public body to exercise, on and after the op-
erative date specified in subsection (1) of this section, all of the duties, functions and powers
conferred on the Secretary of State or the public body by section 2 of this 2017 Act.
SECTION 4. This 2017 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect on its passage.