

# House Bill 2282

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Secretary of State Dennis Richardson)

## 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**.

Provides that identities of individuals interviewed in connection with audit by Secretary of State are confidential.

Modifies provisions relating to confidentiality of reports of government waste, inefficiency or abuse.

Requires secretary to publish quarterly summary of reports of government waste, inefficiency or abuse.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to investigations conducted by the Secretary of State; creating new provisions; amending  
3 ORS 177.180; and prescribing an effective date.

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

### **SECTION 1. (1) The Legislative Assembly finds that:**

6 **(a) Whistleblowers who furnish information to state government auditors may be at risk  
7 of social, economic or physical retaliation if their identities are revealed;**

8 **(b) In order to increase transparency and accountability in state government, the iden-  
9 tity of whistleblowers should be kept confidential in order to encourage whistleblowers to  
10 share information with auditors voluntarily; and**

11 **(c) The public interest is served by a commitment by the Secretary of State to protect  
12 the identity of whistleblowers.**

13 **(2) The identity of an individual interviewed by employees of the Secretary of State in  
14 connection with a completed, ongoing or potential audit is confidential.**

### **SECTION 2. ORS 177.180 is amended to read:**

16 177.180. (1) The Secretary of State shall designate one person employed by the Division of Audits  
17 of the Office of the Secretary of State to be responsible for reports of waste, inefficiency or abuse  
18 received through the Government Waste Hotline or received by the secretary through any other  
19 method. The person designated under this section shall log all reports received.

20 (2) Except as provided in subsection (3) or (5) of this section, the identity of any person calling  
21 the Government Waste Hotline or otherwise making a report under ORS 177.170 is confidential. A  
22 person making a report under ORS 177.170 may waive the confidentiality otherwise granted under  
23 this subsection.

24 (3) The secretary shall conduct an initial investigation of each report of waste, inefficiency or  
25 abuse made under ORS 177.170. Following the initial investigation, the secretary shall determine  
26 which reports shall be investigated further and assign the investigation to audit staff qualified to  
27 conduct waste, inefficiency and abuse investigations. The secretary may audit any state agency if  
28 it appears that officers or employees of the agency, or persons under contract with the agency, are

**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 engaging in activities that constitute waste, inefficiency or abuse. Notwithstanding subsection (2)  
 2 of this section:

3 (a) If the secretary determines during the investigation that a violation of any provision of ORS  
 4 chapter 244 may be occurring or may have occurred, the secretary shall notify the Oregon Govern-  
 5 ment Ethics Commission of the potential violation; and

6 (b) If the secretary determines during the investigation that fraud or other criminal activity may  
 7 be occurring or may have occurred, the secretary shall notify the appropriate law enforcement  
 8 agency of the potential fraud or other criminal activity.

9 (4) Except as provided in subsection (3) or (5) of this section, *[an investigation of]* a report of  
 10 waste, inefficiency or abuse received under ORS 177.170 **and any resulting investigation are** *[is]*  
 11 confidential unless the secretary finds that waste, inefficiency or abuse has occurred and reports  
 12 these determinations as provided under subsection (6) of this section *[or determines not to investigate*  
 13 *following an initial investigation under subsection (3) of this section]*. If the secretary finds that waste,  
 14 inefficiency or abuse has occurred, the **initial report, any resulting** investigation and any deter-  
 15 minations made are confidential until the investigation described in subsection (3) of this section is  
 16 complete. *[A determination by the secretary not to investigate following an initial investigation consti-*  
 17 *tutes completion of the investigation.]*

18 (5) Notwithstanding subsections (2) and (4) of this section, the secretary may convey the con-  
 19 tents of a report of waste, inefficiency or abuse made under ORS 177.170 to a public body, as defined  
 20 in ORS 174.109, unless the person making the report under ORS 177.170 objects to disclosure of the  
 21 report to the public body.

22 (6) Subject to the confidentiality requirements of subsection (2) of this section, upon completion  
 23 of an investigation under this section:

24 (a) The secretary shall determine in writing whether officers or employees of a state agency,  
 25 or persons under contract with a state agency, are engaging in activities that constitute waste, in-  
 26 efficiency or abuse. The written determination may include other information about the nature of  
 27 the investigation or the secretary's determination.

28 (b) If the secretary finds that waste, inefficiency or abuse has occurred, upon request of the  
 29 person who made the report under ORS 177.170, the secretary shall provide the person with a copy  
 30 of the determination and any other information included by the secretary.

31 (c) If the secretary determines that officers or employees of another state agency or public body,  
 32 or persons under contract with a state agency or public body, are involved in activities that con-  
 33 stitute waste, inefficiency or abuse, the secretary shall notify the state agency or public body of the  
 34 determination and deliver a copy of the secretary's findings to the agency or body.

35 (7) A written determination prepared by the secretary under this section is a public record.  
 36 Following the completion of an investigation, *[or a determination not to investigate beyond an initial*  
 37 *investigation]* **if the secretary finds that waste, inefficiency or abuse has occurred**, all docu-  
 38 ments, information or other records relating to the investigation are disclosable public records un-  
 39 der ORS 192.311 to 192.478 unless an exemption from disclosure set forth in a provision of law other  
 40 than this section applies to the records, except that the identity of the person making the report  
 41 under ORS 177.170 shall remain confidential.

42 (8)(a) The secretary shall prepare an annual report and submit it to each regular session of the  
 43 Legislative Assembly. The report shall describe the number, nature and resolution of reports made  
 44 under ORS 177.170 and shall identify savings resulting from improved efficiencies or the elimination  
 45 of waste or abuse resulting from reports received and investigations conducted under this section

1 and ORS 177.170. The report shall also list the number and nature of any positive reports received  
2 relating to state agencies, state employees or persons under contract with state agencies.

3 **(b) Each calendar quarter, the secretary shall prepare a summary of aggregate data re-**  
4 **lating to reports received under ORS 177.170 in the preceding quarter, including, at a mini-**  
5 **imum, the number of reports received, the state agencies to which the reports relate and the**  
6 **nature of the reports at a level of detail the secretary deems appropriate. The secretary shall**  
7 **make each summary available to the public via the Internet.**

8 **SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
9 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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