

## Top 10 Myths About Oregon's New Government Ethics Laws

1. Lots more public officials will be required to report information with the ethics commission.

(Truth: A few counties and cities that previously were exempt from the SEI reporting were added, but otherwise there are not new categories of people who must report. A hodge-podge of cities and counties were previously exempt because they were not incorporated in 1974 or the voters didn't approve the ethics measure back in 1974. Now all cities and counties will be treated the same.)

2. All gifts, even small gifts, received by public officials must be reported to the ethics commission.

(Truth: Gifts received will not be reported by the public official to the commission at all. There is a new yearly gift limit of \$50. Because of the low gift limit, best practices would be to keep personal records of gifts received from each source so as not to go over the limit. Note: Registered lobbyists and persons employing lobbyists, however, must report expenditures. In addition, certain items defined as "not gifts" must be reported by SEI filers.)

3. Every time a public official violates an ethics law (and even if due to ignorance of the new law), the official will be slapped with a big \$5,000 fine.

(Truth: The maximum fine that the ethics commission may impose did increase from \$1,000 to \$5,000. The maximum had not been changed since 1974. However, the commission has had and will continue to have, discretion in imposing fines. Most cases settle for much lower fines. To help standardize fines, the new law also requires the commission to adopt by rule criteria for determining the amount of civil penalties that the commission may impose. In addition, the commission now will have statutory authority to issue letters of reprimand, explanation, or education in lieu of imposing a civil penalty.)

4. If a public official approved, worked on, researched, or assisted in any way with a public contract, that public official can not later benefit from that contract.

(Truth: Conflict of interest ethics rules will continue to govern this area of law. That is, a public official will have had a conflict of interest if they knew they would benefit from a contract they authorized and the class exception did not apply. The new law does add a more specific objective prohibition, providing that a public official may not, for "two years after the person ceases to hold a position as a public official, have a direct beneficial financial interest in a public contract that was authorized" by the public official. Pending administrative rules likely will define what "authorized" means.)

5. Fire victims in a neighborhood can no longer bring down pizzas to the local firehouse to thank the firefighters.

(Truth: Firefighters, including volunteer firefighters are public officials. However, most neighbors won't have a "legislative or administrative interest" with the firefighters or fire district. There are no longer any gift dollar limits for persons without a "legislative or administrative interest." The class exception must also be kept in mind when determining whether a person has a legislative or administrative interest. Only if the giver has an administrative or legislative interest, and there is no class exception, would the pizza value need to be kept to the new \$50 per year limits.)

\*\* Prepared by Wendy J. Johnson, Deputy Director and General Counsel, Oregon Law Commission

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6. Public officials can no longer attend charity dinners if someone else pays for their ticket.

(Truth: Maybe not a myth. Unless one of the special exceptions applies, charity dinners will be treated as gifts subject to the \$50 per person per year limit (unless the giver does not have a legislative or administrative interest). However, pending administrative rules may provide that the benefit/value to the official is the value of the meal itself, and not the contribution to the charity (i.e. ticket price minus cost of food).)

7. The new ethics laws substantially broaden the relatives/household members to which the gift limits apply.

(Truth: The ethics laws have always applied to relatives of public officials as well as members of the household. The definition of relative for most ethics law purposes was broadened to include 1) domestic partners; 2) spouses of siblings (old law had covered siblings, but not their spouses); 3) any individual for whom the public official has a legal support obligation; 4) and any individual for whom the public official provides benefits arising from the public official's public employment or from whom the public official receives benefits arising from that individual's employment. The definition of member of the household now means any person who resides with the public official. Note: The definition of "relative" for purposes of the nepotism law is much broader.)

8. Public officials can no longer work in the same public body as any of their relatives.

(Truth: A public official generally may not appoint, employ, or promote a relative (new broader definition). However, the public body or another individual in the public body may appoint, employ, or promote a public official's relative. This was covered under general conflict of interest rules before, but people found those rules difficult to understand in the employment context. Thus, a specific nepotism rule was codified to largely reflect practice and ethics opinions.)

9. All persons who lobby "legislative officials" or "executive officials" at any level of government will be subject to the lobbying registration and new reporting requirements of the lobbying laws found in ORS Chapter 171.

(Truth: The definition of "lobbying" continues to focus only on those who influence or attempt to influence "legislative action." "Legislative action" is narrowly defined to cover matters that are the subject or may be subject to action by either house of the Legislative Assembly, committee of the Assembly, or the approval or veto of the Governor. Note: ORS Chapter 244 regulates public officials at all levels of government, but the laws regulating lobbyists are focused only on state legislative action.)

10. The new ethics laws had an emergency clause and thus all these new ethics laws took effect upon the Governor's signature on July 31, 2007—and we don't know what the new rules require!

(Truth: The two large ethics reform bills, SB 10 and HB 2595, passed during the 2007 Legislative Session did have Emergency Clauses-- making them effective on signing. However, the bills also had extensive operative date provisions. Nearly all sections of the bills do not become operative until January 1, 2008. Thus, the emergency clauses were really there only to allow the commission to start producing forms, rules, etc. to prepare for the operative date of January 1, 2008.)

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