

OREGON BOARDS AND COMMISSIONS

ORIENTATION HANDBOOK



Victor Atiyeh
Governor
1985

INTRODUCTION

VICTOR ATIYEH
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OFFICE OF THE GOVERNOR
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SALEM 97310

Oregon has a great tradition of citizen involvement in the administration of state government. A strong and important part of that tradition is citizen participation on state boards and commissions.

My mission as Governor of Oregon is to see that our citizens receive the best possible service and protection from state government. Board and commission members work in partnership with me to help guarantee this goal and thus maintain a healthy business climate in our state.

This Orientation Handbook has been prepared to give you some basic insights into the purposes and functions of state boards and their staff. It outlines some of the key activities board members become involved in, and highlights some of the pertinent laws with which board members should become familiar.

This handbook should also serve as a guide to the views of this administration on the responsibilities of board members and the exciting role they can play in helping to maintain an efficient and innovative state government.

I ask you to remember that state government represents no special interest, no single group or professional association, but all of the people in Oregon. I hope you will keep this in mind when you are making your board decisions and recommendations.

I am sure your contributions to state government and to the people of Oregon will be positive. Thank you for your time and effort.

Sincerely,

A handwritten signature in black ink, appearing to read "Victor Atiyeh", written over a horizontal line.

Victor Atiyeh
Governor

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INTRODUCTION

THE BOARD SYSTEM

Oregon's successful development of a truly effective citizen advisory role in government's decision-making processes is unique in state government. A strong and important part of this successful tradition is citizen participation on state boards, commissions, task forces, councils, and committees (referred to generically as "boards" in this handbook).

At all levels of our state government, the individual contributions of the members of boards have dynamic and important impact on the efficiency, innovation and responsiveness of governmental decision-making. Just as boards impact government, individual board members have the potential to dynamically influence the decision-making process of the board to which they belong.

Most major state agencies or departments are headed by policy-making boards or commissions appointed by the Governor. Many additional committees, councils, boards, and commissions, composed of dedicated and responsible citizens, establish policy in given areas or serve in advisory capacities.

With boards functioning at every level and in every decision-making agency, board members have the opportunity to participate in the development of a wide variety of governmental policies covering such major issues as consumer protection to economic development, from education to conservation, from personal rehabilitation to criminal justice.

The board system has contributed greatly to the success of Oregon state government. It is the key to bringing citizen talent and interest into the affairs of the state, to keeping government innovative and responsive, and to improving the performance of all state agencies and institutions.

TYPES OF BOARDS AND COMMISSIONS

The purpose, scope, and means of each board is determined by the state law or executive order that created it. In terms of purpose and scope, there are five main types of boards. Some boards are a mixture of types. Each board is created to meet a specific need in the management of state government, so it is important to understand the distinctions between and special concerns of each type.

Policymaking Boards are given statutory power by the Legislature to develop policy decisions and to enforce regulations. Policy is developed by interpreting legislative intent as outlined in the board's governing statutes through officially adopted administrative rules, and by implementing streamlined, straightforward procedures to carry out those rules.

Some policymaking boards are also governing boards, responsible for directing a state agency and/or appointing the agency director. Members of policymaking boards are generally final decision-makers, accountable directly through the Governor to the public.

Advisory Boards may be created by the Governor, the Legislature, state agencies, or existing boards. They serve as advisors on policy matters to their appointing authority who is responsible for the management and administration of such policy. These boards study existing policy and make recommendations for change or implementation. Although they do not have the final authority to make or enforce rules, their research and advice to decision-makers often contributes to effective changes in state government.

Licensing Boards fall into either of the above types depending on the statute or order that establishes their existence. These boards examine and license members of a profession or occupation to practice in Oregon. Some also have the power to discipline members of the regulated profession or occupation, and to suspend or revoke licenses.

Judgment Boards are created by the Legislature as review and appeals boards which hear individual cases and rule on them. The decisions made by most of these and all other boards can be appealed to a higher court.

Some boards share responsibility for policymaking with their appointing authority or another state agency, even though they are called advisory boards.

Your board may be any one or a mix of the types of boards identified. Additionally, the board may be empowered by statute or executive order to carry out this functions by any one or more of the above-identified means. You will need to become familiar with your board's particular governing statute in order to understand the unique framework within which the board must operate.

BOARD RELATIONS

BOARD RELATIONS

In Oregon state government, most state agencies operate relatively independently within their areas of responsibility. Overall policy guidance and direction are provided by the Governor, as the state's chief executive officer, and by the Legislature, which writes the laws and appropriates funds for operating state government.

The executive and legislative branches reflect the separation-of-powers principle that provides a system of checks and balances. The Legislature creates state agencies, defines their functions, and appropriates funds. The Senate confirms the Governor's appointments to certain offices. To ensure that legislative intent is followed, the Legislative Counsel Committee reviews state agencies' administrative rules. Under the Sunset Law, certain licensing agencies, boards, and commissions are terminated unless their continuation is approved by the assembly.

The Governor coordinates the activities of the state agencies; actively participates in the design, development, and approval of state agency budgets; appoints many of the agency heads, boards, commissions, and other officials; and approves or disapproves all legislation affecting state agencies.

Board activities are subject to both legislative and executive oversight. Actions by the Governor and the Legislature may result in revision of the board's authority or changes in appropriations.

THE GOVERNOR'S OFFICE

The Governor's office includes assistants for communications, executive appointments, and internal administration. The Governor also has assistants who advise on state agency policy and program matters, economic development and education issues, and legal issues. Separate offices within the Governor's office include the state Affirmative Action Office and the Office of the Citizens' Representative.

The Governor's Executive Appointments office is available to answer questions you have about your board and your service on it. If you have questions about the applications process, or if you would like to recommend someone for appointment, contact the following address:

Executive Appointments
Office of the Governor
State Capitol
Salem, Oregon 97310
Phone: 378-3123

OREGON STATE LEGISLATURE

Many board members have some involvement with the Legislature during their period of service. (See "Recommendation Legislation" under BOARD ACTIVITIES). The Oregon Legislature is composed of 90 members elected by the voters of the 30 senatorial and 60 representative districts in the state. The 30 members of the Senate serve four-year terms, and the 60 members of the House serve two-year terms.

The Oregon Constitution requires that the Legislature meet every two years. It convenes on the second Monday in January of every odd-numbered year and stays in session approximately six months. The members of the Legislature or the Governor can call a Special Session if there is a need to meet during the interim between regular sessions.

The President of the Senate presides over the Senate; the Speaker of the House presides over the House of Representatives. These officers are elected by the members and preside over the daily sessions; oversee operations; and perform other duties as prescribed by rule, custom, and law.

Both houses operate under an open committee system which allows public testimony on any issue. The committees are appointed by the presiding officers. Over 2,000 bills are introduced each session, and about one-third of them become law. Most of the work of consideration and revision of the bills during the session is done in the legislative committees. Committees also conduct interim studies concerned with specific issues of concern.

For more information about legislative process, see "An Idea Becomes Law" under APPENDICES. General information regarding the current organization of the Legislature including committee assignments, office locations, and telephone numbers may be obtained from the following offices:

SENATE

Secretary of the Senate
232 State Capitol
Salem, OR 97310

Phone: 378-8168

HOUSE OF REPRESENTATIVES

Chief Clerk of the House
H271 State Capitol
Salem, OR 97310

Phone: 378-8880

LOCAL AND FEDERAL GOVERNMENT

As a board member, you may be representing state government in its relations with other governmental bodies. This working relationship requires tact and knowledge in order to maintain cooperative and effective relations.

State government has a significant responsibility in the federal system of planning, funding and operating programs. About 70 percent of all federal grant dollars are funneled to state government or through state government to local governments. The other 30 percent goes directly to local programs.

State-Local Relations

Many state boards make policy decisions, recommendations, or studies which directly affect the budget, programs, and daily operations of cities, counties, and local districts in Oregon. Local government officials must be informed of the state's activities in order to plan for change, and state boards must be aware of local needs and problems.

Boards can work directly with local citizens and officials or through the following established associations:

- Intergovernmental Relations Division, Executive Department
- League of Oregon Cities
- Association of Oregon Counties
- Councils of Governments
- City councils and County commissions
- Local neighborhood and citizen associations

State-Federal Relations

State government can affect the development and operation of federal regulations, funding, and programs in order to ensure that the state's priorities are considered. Each federal agency must publish an agenda in the Federal Register of the significant regulations scheduled for review. The amount and nature of comments from state governments are included in the review process. The review and comment procedures determine if existing regulations should be rewritten or eliminated.

**WHERE TO GET
INFORMATION AND
HELP**

WHERE TO GET INFORMATION AND HELP

BOARD STAFF

Most state boards work within a state agency or have access to assistance and advice from the agencies. Typically, if a board works within an agency, certain central support services to manage internal business agency-wide are provided. Additionally, however, most boards have their own staff to perform their own day-to-day administrative functions.

Most often, the primary role of board staff is to carry out the rules, policies, and programs developed by the board. Administrative officers or staff also bring to the attention of the board issues of importance, prepare meeting agendas in consultation with the board chair, and compile background information for board study. Board staff can act as coordinator of functions of the board with other agencies and officials, as communications liaison between the board and state agencies, the Attorney General's office, the Legislature, and the public, as appropriate.

Additional responsibilities often delegated to board staff include:

- handling all meeting arrangements (location, public notice, etc.);
- preparation of the minutes;
- processing complaints;
- supervision of clerical and other professional staff;
- administering board programs;
- designing forms to conduct board business;
- preparing budget requests and Emergency Board requests;
- monitoring income and expenditures to comply with legislatively approved budgets;
- working with the board to develop proposed rules;
- providing information to the board about proposed legislation;
- tracking bills during legislative session;
- coordinating testimony before legislative committees; and
- representing the board before legislative committees and other groups.

The degree of direction taken, or not taken, by the staff of any board will depend on the nature of the board and the arrangement made between the members of the board and its staff. In many cases, the board's staff support can greatly influence the productivity and effectiveness of the board. Board staff should be considered resource persons who can bolster

and clarify your understanding of state government and the issues that confront you. Members should feel free to ask their staff for help, whenever necessary, in dealing with the state or in carrying out board business.

The resources available to you, as a board member, extend beyond your immediate staff and affiliated state agency to resources throughout state government. You may have occasion to request advice from legal experts, financial managers, or others with helpful expertise. The following pages describe the specific function of state agencies which will affect you as a board member and whose support services are available to all state boards.

THE EXECUTIVE DEPARTMENT

The Director of the Executive Department is appointed by and serves at the pleasure of the Governor. The Department was established to administer the Governor's programs, and it provides policy direction and support services to state agencies for the effective and efficient achievement of state program objectives.

Three of the Department's seven divisions work with state boards:

The Budget and Management Division (378-3106) reviews all state agency proposed budgets to assure that resources are allocated effectively and prepares the Governor's biennial budget package for approval by the Governor and presentation to the Legislature for appropriation. All state agencies, including state boards, submit their proposed budgets to this Division for review and assistance. Additionally, the Division oversees expenditures to assure consistency with Governor's policy and legislative intent. Board members participate in preparing, reviewing, and presenting the budget to the Governor and Legislature.

The Intergovernmental Relations Division (378-3732) assists in coordination between local, state, and federal governments. The Division provides information about federal and state programs using computerized information sources and provides technical assistance to state agencies and local governments applying for various state and federal grants. It serves as a liaison between the state and other governments in certain political, as well as financial, matters.

The Personnel Division (378-3140) administers state personnel management programs and provides services to state agencies in recruiting, compensation, records, and training. This Division is responsible for ensuring that all state employes are hired according to the state merit system and affirmative action goals. The Division always has approval over the selection process and salary setting for all staff. Its governing statutes supercede other statutes which may give selection and salary setting authority to state boards.

DEPARTMENT OF GENERAL SERVICES

The Department of General Services is a business enterprise providing centralized business services to state agencies. Its Director is appointed by and serves at the pleasure of the Governor. The Department is responsible for managing property, purchasing, printing, telephones, and mail for the state. It is in charge of renting office space and providing office equipment, and it will assist boards in any of these areas. Additionally, the Department sells surplus office equipment.

Boards will generally come into contact with four of the Department's six divisions:

The Purchasing Division (378-4642) is responsible for procurement of goods and services for all of state government. The Division distributes or sells state and federal surplus property to state and local agencies and operates a central stores program for state agency purchase of required office commodities.

The Printing Division (378-3560) provides printing services to state agencies through its printing plant, copy centers, and contracts with private industry vendors. The printing plant provides production printing services to all branches of government, and copy centers are capable of producing short-run multiple-page documents. The Division also provides technical support and review for agency copying and word processing equipment needs.

The Real Property Division (378-2865) is responsible for assigning space in state-owned buildings, arranging for leased office space, and managing state-owned buildings by providing maintenance, custodial, and security services.

The Services Division (378-4159) administers the state's telecommunications, mail, motor pool, office equipment repair, and shuttle programs.

The state vehicle program consists of three state-operated motor pools located in Portland, Salem, and Eugene. All pools are open from 7:00 a.m. to 6:00 p.m., Monday through Friday. Passenger vehicles from mini-compact sedans to vans are available for use. For further information, you may contact the State Motor Pool:

Portland	229-5800
Salem	378-4377
Eugene	686-7706

Additionally, in the shuttle program, vans transport anyone on state business on several scheduled runs each day between Salem, Portland, Albany, Eugene, and Corvallis.

THE ATTORNEY GENERAL (378-4400)

The Attorney General is an elected official who advises state agencies on legal matters, issuing legal opinions by informal letters, or formal Attorney General Opinions. A written Attorney General Opinion expresses what the Attorney General believes a court would say if confronted with

the same question. It is advisory to the agency. If the agency follows the advice of the Attorney General, this virtually assures board members and the agency immunity from personal liability. By the same token, failure to follow the Attorney General's advice may leave the board member subject to personal liability. (See a more detailed explanation of personal liability under PERTINENT LAWS.)

Most boards have an attorney from the Attorney General's office assigned to work with them. The board may request the following assistance from its Assistant Attorney General:

- assure that board decisions are within the scope of the board's statutory authority;
- review proposed regulations and revisions, and/or draft these documents in legally correct language;
- present evidence in support of complaints and cross-examine witnesses in disciplinary hearings; and
- attend meetings to give legal advice.

There is a charge for all advice and services of the Attorney General's office. All requests for legal advice and services should be reviewed by the full board or whomever the board reports to for budgetary implications. If the board works with a state agency, the request for advice is approved by the agency director.

THE SECRETARY OF STATE (378-4139)

The Secretary of State is an elected official who serves as the state's chief elections and public records officer, the auditor of public accounts, and the administrator of the State Archives. Three separate divisions fulfill the duties of the Secretary of State's office:

The Audits Division (378-3329) performs both regular and special audits and examinations to review the affairs of all state agencies and boards for accountability of fixed assets (furniture, equipment), correct accounting of state funds, and efficient management practices. Be certain you are provided reports on regular or special audits or any examination of your specific board.

The Elections and Public Records Division (378-4144) records all official acts and documents of the executive and legislative branches. The Oaths of Office of board members are filed with this Division as the official record of appointment. The Division also administers laws relating to editing, codifying, and publishing all Oregon Administrative Rules. All administrative rules proposed and adopted by policymaking boards are filed with this Division.

The Archives Division (378-4241) preserves the records of government and authorizes prompt destruction of records which have no further value to the state or its citizens. State boards must follow the guidelines established by the State Archives on the care, accessibility, storage, and destruction of its papers and records. No official records may be destroyed without the approval of the Archivist.

**YOUR ROLE AS A
BOARD MEMBER**

YOUR ROLE AS A BOARD MEMBER

THE APPOINTMENT PROCESS

You have been appointed to serve on one of Oregon's boards or commissions because of your ability, experience, and interest in serving. Whether you were appointed by the Governor or another appointing authority, a regular process of selection and appointment has been followed that is based on the membership needs of your board.

Most boards have specific statutory requirements for membership relating to years of licensed experience, occupation or position, residence, number of public members, etc. Board members are also selected to balance broad geographic concerns and interests across the state.

The Governor and other appointing authorities receive recommendations from many sources. Primary consideration is always given to the ability of the prospective appointee to contribute to the productivity and effectiveness of the board.

Some of the Governor's appointees are required by statute to be approved by the state Senate before they are sworn in as board members. The Governor's appointee appears before the Senate committee which will conduct an interview and then forward the appointment to the full Senate to vote upon. The appointment is not official until full Senate approval has been obtained.

An appointee becomes an official member of the board only after the Oath of Office has been administered by the Governor or appointing authority and filed in the Secretary of State's office. The board member may not take any official actions until then, but is encouraged to attend board meetings and become acquainted with board issues.

Terms of membership are generally established by statute and vary from one to four years. In some cases, members serve "at the pleasure" of the appointing authority and do not have specific terms of office. Under the Oregon Constitution, a term of office cannot be more than four years. However, the Constitution requires that members of boards stay in office until successors are selected and qualified, even if the term has expired.

Statutes governing some boards prohibit serving more than two consecutive terms of office. A board member might be reappointed beyond one or two terms under certain circumstances, or a member's term might be extended by the appointing authority (especially if the board is in the middle of a special project or decision). In order to include as many members of the public as possible in the process, however, a member will not generally be appointed to serve more than two consecutive terms on the same board.

The appointing authority has the power to remove from office at any time any board member for continued neglect of duties required by law, for failure to attend two consecutive meetings of the board without just cause, for incompetence, or for unprofessional or dishonorable conduct.

If it becomes necessary to resign, the board member should send a letter to the appropriate appointing authority with the effective date of the resignation. A copy of this letter should also be sent to the administrator or executive officer of the board from which the member is resigning.

On the other hand, if a board member is interested in being reappointed to the board, it is certainly appropriate for the member to inform the Governor or other appointing authority of this interest in continuing on the board.

REPRESENTATION

Most of the state boards and commissions are composed of both members of the profession, occupation, or group with whom the board is most directly concerned, and at least one designated "public member" who represents the interests or concerns of the general public. Members are expected to bring their own perspectives to the board. The different kinds of expertise and points of view brought to the board by its members will provide a rich and healthy balance to decision-making.

It is important to keep in mind, however, that all members, regardless of designation, have been appointed to the board to serve the public at large. The concerns and points of view of all interested parties must be represented and considered, but, ultimately, the primary responsibility of every board member is to protect the health, safety, and welfare of the general public.

If you were recommended for your board appointment by a professional association or special interest group, you will be expected to provide the board with your technical expertise, as needed, and to bring the point of view of the group to the board. However, you were not appointed to serve as the representative of the group. When the group's interest conflict with those of the general public, your primary responsibility is to the public. All board members must work for the benefit of the public first, with the good of any particular profession, industry, or special interest group taking a secondary position.

If you were appointed to fill the designated "public member" position, you may feel intimidated on occasion by the other members' experience in the field or expertise with the subject matter. You are, however, a vital part of the board, representing the Oregon consumer's point of view. Public members' special preservation or advancement of the issues under study brings an added perspective that is needed to balance those special interests that may be represented. Each of you is encouraged to ask questions and seek information until you have a clear answer and good understanding of the problems under discussion.

Public members and special interest members working together form a productive, effective complement to one another in performing the work of the board. Listening to one another's viewpoints and working as a cohesive group with the public's interests foremost in everyone's minds will provide an excellent forum for developing good policies and procedures and finding fair solutions to problems.

BEING AN EFFECTIVE BOARD MEMBER

Oregon boards and commissions are generally small in size (three to 10 members) and are composed of a carefully balanced membership. Each board member has the potential to have a dynamic influence on board decisions and actions. The better informed each individual member is, the more effective each board decision will be.

The most important factor to ensuring that the decisions your board makes are fair and meaningful is regular attendance by all members. Each member's consistent attendance is essential so that everyone will be informed about what is going on and can make thoughtful contributions to board discussions. (In fact, recognizing the importance of regular attendance to board effectiveness, ORS 182.010 states that a person may forfeit membership, if appointed by the Governor, after missing two consecutive board meetings without due cause.)

In addition to regular attendance, it is important that you prepare for meetings by reading reports, proposals, and other documents prepared or distributed by staff. If you are not sure about something, seek advice and request information before and during each meeting that enables you to make a comfortable, knowledgeable recommendation or decision. When you have asked the necessary questions and can prepare and articulate your positions convincingly, you will have a significant impact on the actions and decisions of the board.

Effective board members have these additional characteristics in common:

- they are able to work with a group to make decisions;
- they understand and follow democratic processes;
- they are willing to devote time and effort to the work of the board;
- they work to find alternative solutions to problems when necessary;
- they have good communication skills;
- they recognize that the goal of the board is the service and protection of the public;
- they are aware that authority is granted by the law to the board as a whole, not to any members individually, and can only be used in open meeting by vote of the majority of board members;
- they avoid becoming involved in the daily functions of the staff;
- they delay making judgments until adequate evidence is in and has been fully discussed; and
- they don't let personal feelings toward other board members or staff affect their decisions

You have demonstrated your interest in public service. If your attendance is consistent, you prepare adequately, and you articulate your points of view clearly, you can greatly influence the productivity and effectiveness of your board.

RESTRICTIONS

You must be aware of certain common sense restrictions on board members;

- No board member can make decisions or take unilateral action without board approval. Decisions are made only by the board as a whole.
- Inquiries about board issues should be directed to the board's administrative or executive officer, who will see that all the board members receive full information at a duly constituted meeting.
- No details of board investigations or matters dealt with in executive session should be disclosed by a board member unless they are part of the public record.
- Board members should use caution about participating in private discussions on behalf of one party in the absence of other parties to a dispute.
- Board members should remember that they are seen as representatives of the board when they appear at industry or professional gatherings. They must take care not to appear to be speaking for the board unless specifically authorized by the board to do so.

BOARD ACTIVITIES

GENERAL BOARD ACTIVITIES

BUDGETING

Every state board whose costs are paid wholly or in part from funds held in the State Treasury must submit to the Executive Department before September 1 of each even-numbered year, a proposed budget for the biennium beginning July 1 of the following year.

The proposed board budget identifies expected revenues, the expenditures necessary to maintain the existing service level, and prioritized expenditure requests to add new or delete existing programs or activities. Preparing and monitoring the budget is an ongoing process that involves many participants. As a board member, you may work with your board in creating your board's budget, or you may participate in studying the budgets of other agencies.

If your board's budget is to be prepared for inclusion in the Governor's recommended budget, the board or board staff prepares a draft budget and submits it to the Executive Department for review. An assigned budget analyst in the Executive Department reviews the board's draft budget and submits recommendations to the Governor. The Governor may approve, reject, or amend all or part of the budget package. The budget, approved by the Governor, becomes part of the Governor's recommended budget which is presented to the Legislature.

Approval of the budget is one of the principal issues of every session of the Legislature. The Oregon Constitution provides that the state must not spend money in excess of its revenues. Final decisions that allow limited resources to be allocated on an equitable basis requires most careful consideration. Appropriation bills follow a similar procedure as other bills. The Joint Committee on Ways and Means conducts hearings and receives testimony on the budget requests. When the budget has been approved by both Houses of the Legislature, it is signed by the Governor and becomes law.

The legislatively approved biennial budget is administered by state agencies beginning on July 1 of every odd-numbered year. The budget specifies the maximum amount an agency can spend, subject to quarterly allotment review by the Executive Department.

State board budget money comes primarily from three sources:

General Fund. Boards are generally financed from taxes (e.g., personal income taxes, corporate excise and income taxes, inheritance and gift taxes, insurance taxes). Other resources of General Fund money include liquor sales profits and federal revenue sharing. Budget approval for a General Fund board means that the board is authorized to spend up to a certain amount of tax money for its operation. This authorization is called an appropriation.

General Fund money is generally used for state agencies, boards, and programs that deal with health (public and mental health), education (higher education, community colleges, basic school support), public welfare, correctional institutions, legislative and judicial functions, general governmental administrative functions, and public transportation.

Some state boards are funded in whole or in part by Federal Funds. Such boards must get permission from the Legislature to apply for this money (federal grants). A federal grant may be a gift to the state or may require that the state provide matching funds.

Other Funds. Boards get their operating money from sources such as business and nonbusiness license and permit fees, trust fund contributions and earnings (unemployment fund), selective sales and use taxes (gasoline tax, cigarette tax), sales of services (college tuition), sales of commodities (timber from state lands), and federal grants. Generally, these sources are established by the Legislature specifically to support the board or program.

Budget approval for an Other Funds financed board establishes the maximum amount of money it can spend from its income source. This is called an expenditure limitation.

Other Funds money is used for most transportation oriented programs (highways, motor vehicles, marine); most employe protection programs (employment, retirement, workers' compensation); many regulatory activities (public utilities, banking, building codes); and some natural resources functions (forestry, wildlife).

Regardless of revenue source, authority for all state agency expenditures remains with the Legislature. If your board finds during a biennium that it needs authority to spend more than the available funds due to an unforeseen or emergency situation, it may ask for a limitation increase from the Emergency Board.

The Emergency Board is a statutory committee made up of state legislators who usually also serve on the Joint Committee on Ways and Means. The Emergency Board meets regularly throughout the legislative interim and considers only state agency requests (including boards and commissions). A board submits its request to the Executive Department, which makes a recommendation to the Emergency Board. A budget analyst from the Legislative Fiscal Office also evaluates the requests and sends a recommendation to the Emergency Board. The request is then considered by a subcommittee of the Board which makes a recommendation to the full board, and a final decision is made.

Whether you are directly or indirectly involved in the budget process, you will find that there are budget experts in the Executive Department and in your agency who can help you plan and understand the process.

RECOMMENDING LEGISLATION

Many state boards and commissions work with the Legislature in changing and developing state law. Your board may propose legislation and/or track bills that relate to the work and concerns of your board. Legislation proposed by your board should be submitted to the appropriate appointing authority or Governor's assistant who serves as a board liaison.

The Executive Department coordinates the Governor's legislative program for all state agencies and boards. Bills in the Governor's package receive the Governor's support, but bills can also be submitted separately by agencies or individuals. If your board wishes to include legislation in the Governor's package, it must forward the proposed legislation to the Executive Department and Governor's office for review.

Revisions may be requested if necessary. When revised drafts have been approved by the Executive Department and the Governor, the bill becomes part of the legislative package the Governor submits to the Legislature.

As a board member, you may also testify before legislative committees and advise legislators on issues which concern your board. The knowledge and expertise provided by state boards can be very helpful to the Legislature. Be careful, however, that you do not represent yourself as a spokesperson for your board without the board's prior consent and approval.

The chart in the APPENDICES section, "How a Bill Becomes Law," gives a graphic description of the many steps a bill goes through before becoming law.

RULEMAKING

To carry out prescribed duties and responsibilities, your board may need to prepare and/or adopt administrative directives. Generally speaking, there are four different types of administrative directives: rules, policies, procedural statements, and administrative memoranda. It is important to understand the differences between these types of directives and the extent of your board's authority to adopt one or more of the types.

A rule is a generally applicable administrative directive, standard, regulation, or statement which implements, interprets, or prescribes law. It may set forth standards and expectations in general terms or may specifically deal with day-to-day objectives. A rule, rather than a policy or procedural statement, is adopted when the subject matter affects the public or another agency of government or when a statute directs that a rule be adopted. Once established, a rule has the force of law and all persons or entities to whom the rule applies must adhere to it.

Boards may engage in rulemaking only if the Legislature has specifically delegated that authority in the board's enabling statute. Most boards have the authority to pass rules and regulations necessary to implement

their own statutory powers. The board cannot pass rules which go beyond the scope of its statute, because rules are generally intended to provide interpretive support for the statutes.

Because rules affect the public, they must be adopted in compliance with the requirements of the Administrative Procedures Act (ORS Chapter 183) unless specifically exempted by statute. The Administrative Procedures Act (APA) is a comprehensive code that imposes requirements for several types of board procedures: rulemaking, issuing declaratory rulings, holding contested case hearings, ensuring readability of public writings, and legislative review of state agency rules.

According to the APA, any individual or group can petition a board to adopt, amend, or repeal a rule or the board itself may initiate a rule or rule change in response to a pattern of problems. Following is a common procedure for writing administrative rules:

- a. Board staff, working with the board, develops the proposed rules, keeping these guidelines in mind:
 - the board must have legal authority to adopt the rule and may adopt only rules that are supported by statute;
 - the board must take into account the economic impact of the proposed rule on consumers and affected businesses, industries, and occupations;
 - the board may not adopt a rule which violates the law or the constitution; and
 - the board must comply with statutory requirements for rulemaking procedures.
- b. The board reviews and approves the proposed rules.
- c. The board's legal counsel from the Attorney General's office may be asked to review the proposed rules.
- d. Public notice is given of the intent to adopt the proposed rules.
- e. A public hearing may be held to hear testimony on the proposed rules.
- f. The board formally adopts the rules.
- g. A copy of the rules is sent to the Secretary of State for filing, and public notice is given that the rules have been adopted by the board.
- h. Legislative Counsel reviews the proposed rules.

You are encouraged to become familiar with the contents of the Administrative Procedures Act. Careful compliance with its requirements helps to ensure fair, defensible decision-making. Details of the APA are available in a booklet published by the Attorney General's office.

A policy sets forth, in general terms, minimum standards and directives concerning internal management which do not substantially affect the interests of the public. They are generally issued by the board's

administrative officer or appointing authority. They have the same status within the board as a rule, and all persons to whom a policy applies must adhere to it.

Policy development and adoption are not subject to statutory mandate or the requirements of the APA. However, to protect the interests of the board members, staff, and other parties affected by the proposed policies, it is wise to develop a systematic procedure for policymaking. Staff and other affected persons should always be given an opportunity to make suggestions or ask questions before final adoption.

Procedural statements give the specific details of the day-to-day processes that carry out policies and rules. They are issued by the board administrative officer, govern all persons affected, and have the same status within the board or agency as rules.

Administrative memoranda are simply the notes used internally to communicate temporary data, one-time announcements or requests, and page revisions of existing policies and procedure statements. There is no specific format prescribed for an administrative memorandum.

Administrative memoranda should not be used to issue or modify long-term policies or procedural statements, except in cases of extreme emergency. In such cases, the administrative officer has the responsibility to issue an updated policy or procedural statement within 30 days.

ADDITIONAL ACTIVITIES OF REGULATORY BOARDS AND COMMISSIONS

Many of the boards and commissions engage in regulatory activities. The philosophy of government regulation assumes that the public would suffer physical, emotional, or financial injury if the state did not exercise some oversight or control. Occupational and professional regulation is intended to ensure that people engaged in those activities that might impact the public's health, safety, or welfare provide Oregon citizens with honest and competent services. In addition, the regulation system provides a means for the public to seek redress through a fair, objective process.

Members of regulatory boards and commissions help to set policy and give guidance to the regulated industry or profession under governing statutes. In addition, your responsibilities may include preparing and conducting examinations, evaluating applications, issuing or denying licenses, regulatory by inspection, conducting investigations of alleged violations of the law, taking normal disciplinary action, issuing citations, holding hearings, and imposing penalties. These responsibilities must be prudently exercised on behalf of both the public and the occupations and professions being regulated.

The following are key activities with which regulatory boards and commissions may find themselves involved.

Testing

Tests that are effectively constructed and administered can make an important contribution to licensure. Licensing tests should be designed to ensure that applicants' education and experience has adequately

prepared them to assume those parts of an occupational or professional role that have impact on the public's health, safety, and welfare. A good testing program for a licensing board accurately measures an applicant's knowledge of those factors of the work that are essential to competent practice and protection of the public. A test should not measure purely academic or inessential knowledge.

Constructing a good test requires specialized study and experience. To construct a test that measures the abilities and knowledge necessary for safe and effective performance of those occupational tasks that might impact the public, one must have a full, objective understanding of current practice.

For this reason, a licensing test should be constructed -- or at least reviewed -- by test experts. Some boards use national examinations for their occupation, and these have usually been validated by professional testing organizations.

All boards administering licensing exams should consider ways to remove obstacles, like inconvenient locations and language barriers, which stand in the way of test takers. Board members also need to be sensitive to the problems and rights of applicants who fail:

- The board should let candidates know why they failed. The notification of test results can identify specific areas where scoring was low. Some boards invite these applicants to have a personal discussion with a member of the board or staff.
- When candidates fail only part of an examination, they might not necessarily be required to take the whole exam again, but might retake just the failed portion, with the license granted as soon as all parts are passed.
- There should be a fair way for candidates to appeal answers with which they disagree.

Boards using national examinations may be able to influence their national organization to make changes in any unfair questions or procedures they perceive. Boards using state exams have more direct control and must regularly reevaluate the fairness and effectiveness of their exams.

Board members must remember that it is not the function of their board to keep new licensees out; it is to ensure that licensees have met a minimum level of competency according to statutory requirements.

Discipline

A principle responsibility of licensing boards is to determine whether a person should obtain or retain a license. Those licensing boards with regulatory authority not only establish the standards and prescribe the qualifications required for a license to practice, they are able to regulate the services provided by the licensee by enforcing compliance with those standards.

Most licensing boards may revoke, suspend, or refuse to renew any license, registration, or certificate they issue, and some are authorized to stay a suspension on probationary conditions. They may issue a letter of warning, reprimand, or censure. Most boards may assess a fine for noncompliance with certain statutes or rules.

Your board's disciplinary options and the conditions under which these options may be exercised are spelled out in the statutes or rules governing your board. To effectively carry out the law, the board and your staff must understand the intent and limitations of your enforcement role. Additionally, you should be sensitive to the public's and licensees' perceptions of the state's role. Each board should work to inform the public and licensees about its enforcement role and programs.

Details of your board's disciplinary rights and responsibilities will be provided to you by your administrative officer or appointing authority.

Complaint Handling

The board will receive complaints against licensees. Complaints are usually received from consumers of licensee services, other licensees or professionals, other regulatory agencies, or as a result of routine inspections or investigations. Each complaint must be reviewed (even though it may not be valid or falls beyond the board's statutory jurisdiction) and every effort must be made to mediate and satisfactorily resolve all complaints.

If there is a question as to whether a complaint falls within the board's jurisdiction, the administrative officer should consult with the board's assigned Attorney General. If a complaint is not within the board's jurisdiction, the board must transmit the complaint together with any evidence or information it has to the proper agency. The complainant should be notified of this transmittal.

There are a number of ways in which complaints are handled, depending upon the nature of the complaint and the statutes and rules which govern the board. For example, while a complaint may technically allege a violation of state law, it may not be serious enough to warrant the expense and time of formal disciplinary action. In such a case, the complaint can be mediated and resolved to the complainant's satisfaction, and the licensee advised of the legal requirements or prohibitions in question. Board staff could handle this mediation function.

Hearings

In other cases, a hearing will need to be held to resolve a complaint. The Administrative Procedures Act establishes specific procedures which must be followed to take certain disciplinary actions against individuals or firms (e.g., suspending or revoking a license or assessing a fine). If the board conducts a hearing required by the APA, board members should not participate in the investigative or prehearing complaint-handling functions. They must be impartial parties to the hearing.

When board members become directly involved in prehearing complaint handling or resolution, investigations, or inspections, they subject themselves to possible disqualification in the hearing/disciplinary action process. Prehearing involvement may result in prejudice, bias, or unfair partiality. To ensure fairness, any decision reached in a case must take into consideration only the factual evidence introduced at the hearing, the decision proposed by investigating parties, and the accusation itself. Consideration of any evidence outside the official record is grounds for disqualification.

Individual board members should disqualify themselves if bias or significant interest prevents fair and impartial participation in the hearing. Bias, or prejudgment, includes issues of fact in a case as well as bias for or against a party in the case. Interest means that the board member personally stands to gain or lose from the outcome of the hearing. (See Government Ethics Law under PERTINENT LAWS AND POLICIES.)

If members have any conflicts of interest or have received any communication on a fact or issue made outside the hearing during review of a case, they must place on the record a statement on the nature of the conflict or substance of the communication.

Hearing decisions made by boards may be appealed to the Court of Appeals.

Administrative details of hearings are generally handled by staff. The administrative officer of your board can give you more information about procedures for hearing that the board conducts.

SELF ASSESSMENT

Regulation and licensure are responsibilities that require the exercise of fairness, equity, and judiciousness. Each board must provide ample opportunity for public input and give due consideration to the impact of its activities and decisions on the public at large. Periodic self-assessment will help your board maintain the legislative intent that established it. Regular reevaluation of objective of activities will help ensure that your board avoids unnecessary regulation and makes a positive contribution to the state's business climate.

The following checklist may be useful in carrying out a regular review of your board's functions.

1. Is there a need for regulation?

- When did regulation of the profession or occupation begin, and for what reasons? Does the need still exist?
- Are the rules promulgated by the board consistent with the statutes and legislative intent?
- Is the implementation (guidelines, procedures, etc.) consistent with the rules?

2. Does the board promote and protect the public interest?

- Are there contacts with consumer groups where appropriate?
- What mechanisms encourage consumer participation in decision-making?
- Are due process protections provided to applicants, licensees, and the public?
- Is the board making itself known to, and open, to the public? Do any members of the general public attend meetings?
- How are board meetings, activities, and decisions publicized?
- Does the board or its administrator produce an annual report summarizing its activities? Would the average citizen understand the report and be able to judge how well the board is doing its job? Where does the report place its emphasis?

3. Is the board involved in consumer education?

- Are consumers informed of their rights? Are they informed of ways to get help when their rights have been violated?
- Is information made available to help consumers avoid problems by knowing what to expect when they deal with members of your profession or occupation?

4. Does the board provide protection against deceptive practices, negligence, and incompetence?

- Are records of complaints kept to indicate patterns of abuse?
- What actions does the board take to discipline licensees? Are they fair to licensees and to consumers?

5. Does the board avoid engaging in practices that limit competition?

- Does the licensing process unduly restrict entry into the profession or occupation?
- Are minimum or suggested fee schedules avoided?

6. Is the board operating efficiently?

- Do meetings start on time? Do members arrive on time consistently?
- Do members attend regularly? Do they notify the chair or staff when they are not coming or will be late? Are they aware of quorum requirements?
- Are minutes of previous meeting mailed promptly?
- Does the board spend much time in routine administrative items that could be taken care of by staff?

- Do board members study written background material prepared by staff before coming to meetings?
 - Is the board meeting at a time most convenient for the members? Does it meet too often? Not often enough?
7. Does the board allow others to take up too much of its meeting time?
- Do licensees or those connected with the occupation sit with the board and participate in its discussions and decisions?
 - Are people from the audience making comments when they are not part of the scheduled presentation at meetings?
8. Does each board member understand his or her responsibilities?
- Do board members have a current copy of the agency budget to review, discuss, and monitor?
 - Do board members review, discuss, and monitor the agency's monthly or quarterly expenditure report?
 - Does the board review the Secretary of State's agency/board audit and take the appropriate action?
 - Does each board member have a packet or compendium of policies and/or administrative rules followed by the agency, copies of all statutes for which the board has responsibility?
 - Are board members informed of procedure followed by the administrative staff for processing licenses or other certificates for which your board is responsible; complaints from consumers; license revocation, hearings, etc.?
 - Does your board or agency have a statement of goals and objectives? (Note: These goals and objectives should be reviewed on an annual basis for currency.)
 - Does your board have a statement of the affirmative action policy of your administrative agency and statistics regarding its implementation?

PERTINENT LAWS

SUMMARY OF PERTINENT LAWS

You will want to know about the following laws affecting you as a board member, and the activities of your board.

GENERAL LAWS AFFECTING BOARD MEMBERS

1. The statute or executive order that created your board and governs its activities

Each board has its own statute or executive order which spells out the purpose of the board, number of members and how they are appointed, qualifications for board service, length of term, and general powers and duties of the board.

2. Nonattendance of board members (ORS 182.010)

"Any member of a state board or commission appointed by the Governor who fails to attend two consecutive meetings of the board or commission, whether regular, adjourned or special, shall forfeit his or her office unless prevented from attending by the serious illness of the member or of the member's family or for any other cause that in the judgment of the Governor constitutes a valid reason for failing to attend. The Governor shall immediately appoint a successor."

3. Government Ethics Law (ORS Chapter 244)

As a member of a state board, you are a public official conducting the public's business. Because public officials are entrusted with the power to act on the public's behalf and in the public's best interest, the greatest violation of the public's trust is when an official puts self-interest before the public's interest.

Oregon's Government Ethics Law seeks to ensure that such a violation will not take place, while recognizing that public officials will encounter some situations where personal interests will conflict with their responsibility to serve the public.

As one safeguard of the public's trust, all public officials are required to adhere to the Oregon Code of Ethics set forth in ORS 244.050. This code prohibits public officials from:

- using their position to obtain financial gain for themselves, members of their household, or any business with which they or members of their household are associated;
- using confidential information received in their position for private gain;
- soliciting or receiving a promise of future employment for official action; or
- soliciting or receiving during a calendar year gifts totaling over \$100 in value, from any source with a possible interest in the public official's governmental agency.

In recognition that conflicts cannot always be avoided, the Government Ethics Law also establishes a procedure for handling private interests that potentially conflict with the public's interests. First, the law defines a potential conflict of interest as "any transaction where a person acting in a capacity as public official takes any action or makes any decision or recommendation, the effect of which would be the person's private pecuniary benefit or detriment." Then, the law simply requires that every public official encountering a potential conflict of interest must publicly declare the nature of the conflict before taking official action. The conflict must be recorded in the official records of the board along with an explanation of the disposition of the matter. Having a potential conflict does not necessarily preclude the public official from deliberating or voting on the relevant issue. When your conflict is declared and recorded, only you can determine whether you are able to cast a vote in the public's best interest. While you are encouraged to exercise your voting rights, if your vote would result in a prejudiced, biased, or unfair decision or action, you may choose to abstain.

To help ensure that public officials comply with the provision of the Government Ethics Law, the Oregon Government Ethics Commission was established in 1974. The Commission is statutorily authorized to interpret and enforce compliance with the Ethics Law. It conducts investigations and hearings, issues advisory opinions on these matters, and levies civil penalties for infractions.

Anyone may request, in writing, an advisory opinion from the Commission, and all records of the Commission are public. Additionally, the Ethics Commission publishes an "Ethics Guide for Public Officials" which is available upon request.

Certain public officials are required to file statements of economic interest with the Ethics Commission annually. These statements record sources of income (not amounts) and property holdings. The Ethics Commission sends economic interest statement forms to the members of each of the following boards and commissions each January. The forms must be returned by April 15 of that year.

Capitol Planning Commission
Board of Geologic and Mineral Industries
Economic Development Commission
State Board of Education
Environmental Quality Commission
Fish and Wildlife Commission of the State of Oregon
State Board of Forestry
Oregon Government Ethics Commission
Oregon Health Council and Certificate of Need Appeals Board
State Board of Higher Education
Oregon Investment Council
Land Conservation and Development Commission
Oregon Liquor Control Board
State Lottery Commission

State Marine Board
Mass transit district boards
Energy Facility Siting Council
Board of Commissioners of the Port of Portland
Employment Relations Board
Public Employes' Retirement Board
Oregon Racing Commission
Oregon Transportation Commission
Wage and Hour Commission
Water Policy Review Board
Workers' Compensation Board
Board of Directors of SAIF Corporation

4. Lobby Disclosure Act (ORS 171.725)

The Ethics Commission also administers the Lobby Disclosure Act, which defines lobbying as "activity influencing, or attempting to influence, legislative actions." A board member who spends more than 16 hours a calendar quarter lobbying for the board (not including travel time and formal legislative committee testimony) must register as a lobbyist.

Registration and reports must be filed with the Ethics Commission. Your board administrative officer can give you further details about lobbying.

5. Personal Liability (ORS 30.260, et seq.)

Unless your governing statutes provide otherwise, you are protected by the Public Body Immunity Law against lawsuits incurred as a result of your work on a state board. The Legislature has established that public officials, including board members, will be defended at no expense to them by the Attorney General, and that any judgment will be paid by the state.

The only exceptions are instances where the public official acts outside the scope of duty, in willful neglect of duties specifically authorized, in bad faith or with malice (malfeasance of office), or contrary to the advice of the Attorney General's office.

GENERAL LAWS AFFECTING BOARD PROCEDURES

6. Administrative Procedures Act (ORS Chapter 183)

The Administrative Procedures Act (APA) provides a comprehensive code of procedures which state agencies must follow when adopting, amending, or repealing administrative rules, issuing declaratory rulings or interpreting rules, conducting contested case hearings, reviewing the readability of its public writings, and reviewing rules for continued need and economic impact.

The APA is designed to protect the public against governmental arbitrariness and to ensure that the public receives timely and necessary information on governmental actions which may affect them.

The Attorney General drafts and adopts a Model Rules of Procedure designed to make compliance with the procedural requirements of the APA simple and uniform among rulemaking agencies. Most rulemaking agencies adopt the Attorney General's Model Rules in their own administrative rules.

A copy of the APA and Attorney General's Model Rules are included in a booklet published by the Attorney General for use by board and staff members. This booklet thoroughly discusses rulemaking and contested case procedures, provides checklists for compliance, and outlines pertinent legal rulings rendered by Oregon appellate courts.

7. Public Records and Meetings Laws

It is legislative policy that the public is entitled to know how the public's business is conducted. Therefore, by law, the written record of the conduct of the public's business is, with important exceptions, available to any citizen. Similarly, the deliberations and decisions of public bodies are, for the most part, open to attendance by any interested persons.

A. Public Records and Meetings Laws

Defines records required to be kept by any board or other state agency as public records open to public inspection.

B. Public Meetings Law (ORS 192.610-192.710)

Specifies the requirements for open meetings, the circumstances under which a board may hold a closed meeting, and the requirements for keeping written minutes of all meetings. Unless specifically exempted by statute, all state boards are subject to the Public Meetings Law.

A meeting of a governmental entity must be public (conducted in the presence of any member of the public who is interested in attending) -- with certain exceptions -- if it is held to make a decision or to deliberate toward a decision on any matter. This rule includes telephone conference calls. Public meetings must be publicly announced at least 24 hours in advance of the meeting, and announcements must contain the time and place of the meeting and the major agenda items.

The only meetings from which the public may be excluded are executive sessions, but these must be publicly announced in the same way. Executive sessions are for discussion only; final decisions and actions may not be taken. The law limits the subjects that may be discussed by boards in executive session to the following:

- Employment, discipline, or dismissal of specific public officers, staff members, or individual agents. This may not include general employment matters.
- Consideration of board records to be exempted from public inspection.

- Grading of licensing examinations (under the Federal Family Privacy Act, which allows a candidate privacy as to actual performance on a test).

The press must be admitted unless the executive session concerns labor negotiations. They may be asked to refrain from printing stories about the matters discussed.

The law also forbids smoking tobacco in any form during a public meeting in a building rented, leased, or owned by the state or other political subdivision.

The Attorney General publishes a Public Records and Meetings Manual which is an opinion of the Attorney General interpreting these important laws. Its purpose is to offer general advice to state agencies and should be used by board members and staff.

8. Sunset Law (ORS 182.605-182.635)

This statute abolishes any of 46 state agencies (in addition to any regulatory agencies established after October 1983), including 42 boards and commissions, unless the agency demonstrates a public need for its existence to the Legislature. During each legislative interim, the Joint Interim Task Force on Sunset Review, composed of members of the House and Senate, holds public hearings and receives testimony to evaluate those agencies whose repeal date is no more than 24 months later. The Interim Task Force prepares a report of its recommendations to enable a thorough review by the Joint Legislative Committee on Sunset Review (which functions only during regular legislative sessions) not later than 12 months before an agency's repeal date. The Joint Committee decision on the review must be completed by July 1 of the odd-numbered year.

The agency being reviewed must submit to the Task Force statements demonstrating a public need for its continued existence. These statements must identify how the agency protects the public, detail the specific objectives of the agency, evaluate the effectiveness of the agency's progress in meeting its objective, and make recommendations for any legislative action required to assist the agency in complying with Sunset Review criteria [identified in ORS 182.625(2) and summarized below].

The Task Force's and Committee's evaluations focus on specific criteria including, but not limited to:

- the purpose of regulation shall be the protection of the public health, safety, and welfare and not the enhancement of the status of the regulated profession or occupation;
- the regulation and licensing of a profession or occupation by the state shall be undertaken only where reasonably necessary to protect the health, safety, and welfare of consumers of the services; where those who use the services of the occupation or profession are unable to judge practitioners' qualification for

themselves; and where there is documented evidence of widespread abuses by providers of the service, which abuses would be or have been eliminated or greatly reduced by regulation;

- professional and occupational regulation shall be avoided or eliminated where its benefits to consumers are outweighed by its costs to taxpayers;
- regulation shall not unreasonably restrict entry into professions and occupations. The Committee shall give preference to the registration and certification forms of regulation for agencies that meet the requirements of this subsection. Full licensure, prohibiting entry into the occupation or profession to those who are not qualified by experience and examination, shall be the regulation of last resort except for trades or occupations traditionally entered by means of apprenticeship culminating in state licensing; and
- professional and occupational regulation that artificially increases the costs of goods and services to the consumer shall be avoided.

If the Legislature does not act to continue a board, it is terminated and has one year to phase out its activities. If the Legislature votes not to abolish the board, it will be subject to review eight years later. Preparation of the materials for the Task Force and Committee can provide valuable insight for the board to improve its operations.

9. Unlawful Trade Practices Act (ORS 646.608, et seq.)

This statute defines the protections for the public against unfair and deceptive practices in the sale of consumer goods and services and in certain types of fund solicitation. While this law is not enforced by regulatory boards, the standards for fraudulent and deceptive practices may be of value to boards in their consideration of conduct by regulated individuals and organizations.

10. Expenses, Compensation, and Parking (ORS 292.495)

The statutes or executive order that created your board states whether or not its members are entitled to compensation for time spent in performance of official duties. Payment of compensation depend not only upon the laws governing the board, but on the availability of funds and on state contract negotiations. Any member authorized by law to receive compensation usually receives a per diem of \$30 for each day or portion of a day that the member is actually engaged in official business. Public employes serving on a board on public time are not eligible to receive compensation.

If you are entitled to receive compensation, you will be asked to complete a W-4 form. Taxes will be deducted and a W-2 form will be sent to you at the end of the year. Board members are not included in the state retirement system.

Unless your statutes provide otherwise, and if funds are available, all board members (including public employes) may receive actual and necessary travel or other expenses actually incurred in the performance of their official duties. Compensation for these expenses is set by the Executive Department. To receive reimbursement for expenses, board members must turn in a Travel Expense Detail form which is available from board staff. To maintain sound financial management and control of the board's funds, no board member should incur out-of-town travel expense without prior approval by the board.

Out-of-state travel must be approved at least 20 days before a trip by the Budget and Management Division of the Executive Department. Board members attending conferences should share the content of the conference with the entire board.

Your board staff will give you more specific information and can help you complete the necessary forms.

11. Parking

Parking permits for meetings may be available on a limited basis. You should talk to your administrative officer about parking and transportation alternatives. If available, board staff will make every effort to furnish you with a permit before a meeting. If temporary permits are not available, you may be reimbursed for metered parking; however, you should be aware that "meter feeding" is illegal and you will need to move your car before your meter expires.

The state encourages board members to use public transportation or such alternatives as carpooling, vanpooling, state cars, and shuttles, whenever possible.

**SPECIAL
INFORMATION
ABOUT YOUR
BOARD**

SPECIAL INFORMATION ABOUT YOUR BOARD*

Overview of Board's Program
Duties and Responsibilities of Board and Staff
Copy of Statute(s)
Copy of Administrative Rules
Copy of Policies and Procedures
Current Roster of Board Members
Recent Board Meeting Minutes
Calendar of Future Board Meetings
Copy of Travel Expense Claim (example)
(include comprehensive list of awards/courses)

*This information is to be supplied by your board staff person.

APPENDICES

WHAT IS PARLIAMENTARY LAW?

Parliamentary law is the code of rules and ethics for working together in groups. The procedures that compose the body of parliamentary law simply translate the democratic principles of majority rule, minority rights, equality of voting rights, and freedom of discussion into effective group action. Parliamentary law underlies all decision-making processes, whether formally or informally established. When properly applied, it can help to ensure smoothly-run meetings that accomplish their goals, while allowing all views to be considered in a spirit of harmony and cooperation. When misunderstood or improperly used, however, it can act as a cumbersome restraint to accomplishment.

Parliamentary rules do not have the force of law and do not affect the validity of a board's decision. However, they facilitate transaction of the board's business and guarantee fairness of the board's decisions. They also lay a sound foundation for any future board defense against litigation on grounds of improper procedure.

PRINCIPLES OF PARLIAMENTARY LAW

1. All members have equal rights, privileges, and obligations.
2. The majority vote decides all issues.
3. The rights of the minority shall be protected.
4. Each member has the right to understand every proposition presented for decision, and to engage in full and free discussion of the proposition's advantages and disadvantages before taking action.
5. The simplest and most direct procedure for accomplishing a purpose shall be observed, as long as it does not violate the rights of members.
6. Members shall be protected from abuse by visitors, spectators, and others participating in the board's activities, by use and enforcement of orderly processes.
7. All meetings shall be characterized by fairness and good faith.

RESPONSIBILITIES OF THE CHAIR

1. Recognize board members entitled to speak or propose motions. Note: Some motions may be made while another member has the floor. Speaker must state the purpose of the interruption so the chair can rule its validity.
2. Restate motions after they have been proposed, then open discussion.
3. Close discussion and put motions to vote. Votes on undebatable motions should be put immediately. If any member objects to closing discussion on a debatable motion, a two-thirds vote is required to order closing a debate. Restate the motion exactly as it was made or amended before calling for a vote.

4. Announce the result of a vote immediately. The chair may vote last, after all other members. A tie vote defeats a motion requiring a majority of those voting.
5. Maintain order and proper procedure, making necessary rulings promptly and clearly.
6. Expedite board business in every way compatible with the rights of the board members. You can allow brief remarks on debatable motions, advise board members how to take action (proper motion or form of motion), or order proposed routine action without a formal vote ("If there is no objection, the minutes will stand approved as read. Hearing no objection, so ordered.").
7. Protect the board from frivolous motions whose purpose is to obstruct the board's business. You can refuse to entertain such motions. Never adopt such a course, however, merely to expedite business.

CHOOSING A CHAIR

The chair must effectively serve as both leader and member, coordinator and participant. It is the chair's duty to protect the rights of each board member and the board as a group in the conduct of the board's business. The chair must also ensure that the purposes of each board meeting are carried out properly, efficiently, and effectively.

At the same time, the chair (with rare statutory exception) is appointed as a member of the board with all the rights and duties of other members. Each member of the board is appointed to represent a segment of opinion or a geographical area. The chair, like every other member of the board, is encouraged to exercise the basic rights of membership: to speak and vote.

Unless your governing statutes provide otherwise, each Department of Commerce board must select one of its members as chair and another as vice chair each year. Selection of the chair should not be based upon tenure of service, friendship, or loyalty alone. Not all board members are suited to the responsibilities and special demands on the chair. The Governor, by statute, appoints some board members as chair.

It is important that you, as a voting member of your board, exercise common sense and make your choice based upon the qualities of leadership and fairness that meet the requirements of the position.

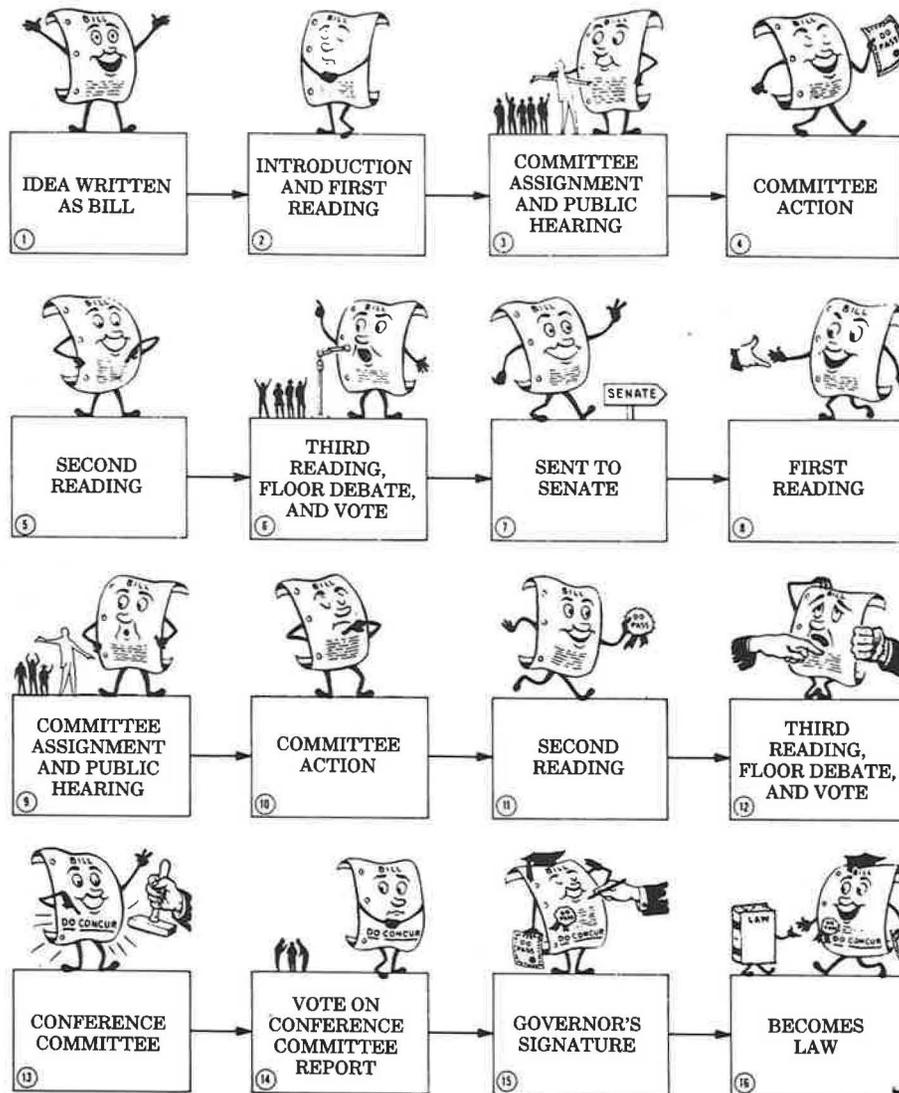
CONDUCTING A MEETING

The chair should know the following factors in advance:

- the general purpose and specific objectives of the meeting;
- the expected attendance of members, spectators, and other participants; and
- the procedure for accepting public participation.

The chair often works with the administrative officer or staff to prepare an agenda specifying the topics to be discussed or decided at the meeting. Many boards feel comfortable about delegating responsibility for the agenda and other meeting arrangements to staff. Public notice of the meeting must be given at least 24 hours before the meeting (see Public Meetings under PERTINENT LAWS), and must include a listing of the principal agenda items.

AN IDEA BECOMES LAW



This brochure gives a simple version of the legislative process in Oregon. Additional information can be found in "Oregon's Legislature and Legislative Process" (Legislative Administration Committee). The brochure traces a House bill. A bill introduced in the Senate follows a similar path, but is first considered by the Senate.

- 1. IDEA WRITTEN AS BILL.** All proposals for laws start as ideas. The idea is written in bill form.
- 2. INTRODUCTION AND FIRST READING.** One or more legislators or a committee may introduce a bill. Citizens or groups may not introduce a bill but may request introduction by a legislator or committee. Legislation may be introduced in either body. However, revenue raising measures must be introduced in the House.
The bill is presented to the Chief Clerk who gives it a number and arranges for printing. Under first reading, it is formally presented to the House. After first reading, the Speaker refers it to a committee for consideration.
- 3. COMMITTEE ASSIGNMENT AND PUBLIC HEARING.** Most consideration of legislation is done in committee. The committee holds public hearings, debates and often amends the bill.
- 4. COMMITTEE ACTION.** The committee may: a) Table the measure, postponing its consideration. b) Report it to the body with a recommendation of "do pass," "do not pass," "do pass with amendments" or "without recommendation." c) Send it to the floor with a "committee report" and "minority report."

- 5. SECOND READING.** Second reading means the committee has completed work on the bill. The bill is placed on the agenda.
- 6. THIRD READING, FLOOR DEBATE AND VOTE.** Within two days following second reading, the bill is read for the third time. The legislators debate and vote on the bill. A majority of the House (31) must vote "aye" for it to pass.
- 7. SENT TO SENATE.** If the House passes the bill, the Chief Clerk sends it to the Senate. The Secretary of the Senate places it on the Senate agenda.
- 8. FIRST READING IN SENATE.** After first reading, the President assigns it to a committee.
- 9. COMMITTEE ASSIGNMENT AND PUBLIC HEARING.** (See step 3 above.)
- 10. COMMITTEE ACTION.** (See step 4 above.)
- 11. SECOND READING.** (See step 5 above.)
- 12. THIRD READING, FLOOR DEBATE AND VOTE.** After the bill has been read for the third time, the Senators debate and vote on the bill. A majority of the Senators (16) must vote "aye" for it to pass.
- 13. CONFERENCE COMMITTEE.** The bill must pass both houses in the same form to become law. If the Senate makes any changes in the House version, the bill is returned to the House for approval of the changes. If the House does not agree with the changes, a conference committee made up of both Representatives and Senators is appointed. The Committee tries to resolve the differences in the two versions.
- 14. VOTE ON CONFERENCE COMMITTEE REPORT.** The recommendation of the conference committee is sent to both houses. If either house does not accept the report, another committee may be appointed. If agreement is not reached, the bill dies.
- 15. GOVERNOR'S SIGNATURE.** After both houses pass the bill in the same form, it is sent to the Governor. During legislative sessions, the Governor has five days after receiving the bill to sign or veto it or let it become law without signature. If the legislature adjourns before the five days have ended, the Governor has 20 days from adjournment to take action.
- 16. BECOMES LAW.** A bill usually takes effect on the 91st day following adjournment. If the bill contains an emergency clause, it takes effect when signed by the Governor. The bill may also specify an effective date.