

# House Bill 2058

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Public Commission on the Oregon Legislature)

## 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**.

Changes membership of Public Officials Compensation Commission. Requires commission to establish salaries of specified elective officers and members of Legislative Assembly. Provides that, subject to appropriation, salaries established by commission take effect unless Legislative Assembly passes bill rejecting or amending salaries.

Takes effect only if constitutional amendment proposed by House Joint Resolution 1 (2007) is approved by people at special election held on same date as next primary election. Takes effect on effective date of constitutional amendment proposed in House Joint Resolution 1 (2007).

## A BILL FOR AN ACT

1  
2 Relating to Public Officials Compensation Commission; creating new provisions; amending ORS  
3 8.690, 8.790, 8.852, 171.072, 292.430, 292.907, 292.912, 292.917 and 292.930; repealing ORS 292.313,  
4 292.405, 292.410, 292.415, 292.425 and 292.920; and prescribing an effective date.

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

6 **SECTION 1.** ORS 292.907 is amended to read:

7 292.907. (1) There is established a Public Officials Compensation Commission consisting of  
8 *[seven]* **11** members *[of whom two are appointed by the Governor, two by the Speaker of the House of*  
9 *Representatives, two by the President of the Senate and one by the Chief Justice of the Supreme Court*  
10 *of the State of Oregon.]* **appointed or selected as follows:**

11 **(a) Two members who have a background in compensation management, appointed by the**  
12 **Governor, subject to confirmation by the Senate under ORS 171.562 and 171.565;**

13 **(b) One member appointed by the Chief Justice of the Supreme Court;**

14 **(c) One member appointed by the President of the Senate;**

15 **(d) One member appointed by the Speaker of the House of Representatives; and**

16 **(e) Six members selected by lot by the Secretary of State in the manner described in**  
17 **section 3 of this 2007 Act.**

18 (2) The term of office of each member is four years. A member is eligible for reappointment **or**  
19 **reselection**. If there is a vacancy for any cause, the *[appointing]* authority having made the ap-  
20 pointment **or selection** of the member representing the vacancy[,] shall make an appointment **or**  
21 **selection** to become immediately effective for the unexpired term.

22 (3)(a) *[No person]* **Neither an individual** who holds an office or position the salary of which is  
23 subject to ORS 292.907 to 292.930 *[shall be]* **nor an immediate family member of the individual**  
24 **is eligible to serve on the commission.**

25 **(b) As used in this subsection, "immediate family member" means an individual related**  
26 **by blood, marriage or adoption to the individual who holds an office or position the salary**  
27 **of which is subject to ORS 292.907 to 292.930.**

28 **(4) To be eligible to serve on the commission, an individual must have voted in the two**

**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 **general elections held immediately before the individual's appointment, reappointment, se-**  
 2 **lection or reselection.**

3 **SECTION 2. Section 3 of this 2007 Act is added to and made a part of ORS 292.907 to**  
 4 **292.930.**

5 **SECTION 3. (1) The Secretary of State shall select by lot from elector registration re-**  
 6 **ords six persons for membership on the Public Officials Compensation Commission. The**  
 7 **Secretary of State shall select one elector from each congressional district and one elector**  
 8 **from the state at large.**

9 **(2) The Secretary of State shall adopt rules concerning the method by which electors are**  
 10 **selected by lot. The rules shall include but are not limited to:**

11 **(a) Procedures for notifying the electors selected;**

12 **(b) Procedures for making a new selection by lot if an elector who is selected declines**  
 13 **to serve on the commission; and**

14 **(c) Procedures for filling a vacancy on the commission if a selected member does not**  
 15 **complete the member's term.**

16 **SECTION 4. (1) Notwithstanding the term of office specified in ORS 292.907, the term of**  
 17 **office of each member of the Public Officials Compensation Commission on the effective date**  
 18 **of this 2007 Act expires on the effective date of this 2007 Act.**

19 **(2) A member whose term of office expires as provided in subsection (1) of this section**  
 20 **is eligible for reappointment or selection to the commission.**

21 **(3) New members shall be appointed or selected to serve on the commission on or after**  
 22 **the effective date of this 2007 Act.**

23 **(4) Notwithstanding the term of office specified in ORS 292.907, of the members first ap-**  
 24 **pointed or selected to serve on the commission after the effective date of this 2007 Act:**

25 **(a) Two shall serve for terms ending January 1, 2009;**

26 **(b) Three shall serve for terms ending January 1, 2010;**

27 **(c) Three shall serve for terms ending January 1, 2011; and**

28 **(d) Three shall serve for terms ending January 1, 2012.**

29 **SECTION 5. ORS 292.912 is amended to read:**

30 **292.912. (1) The Public Officials Compensation Commission shall review and [make recommen-**  
 31 **dations to the Legislative Assembly regarding] establish the annual salary of each elective officer**  
 32 **subject to ORS 292.907 to 292.930 and [all compensation of members] of each member of the Legis-**  
 33 **lative Assembly for the succeeding biennium.**

34 **(2) [Such recommendations shall be] The commission shall establish the salaries based upon**  
 35 **the following criteria:**

36 **(a) Comparable positions in neighboring states.**

37 **(b) The qualifications and skills necessary for each office.**

38 **(c) The level of responsibility implicit in each office.**

39 **(d) The cost of living.**

40 **(e) The total compensation of the positions, including benefits other than salary.**

41 **(f) Budget limitations.**

42 **(g) Any other factors the commission may consider to be reasonable, appropriate and in the**  
 43 **public interest.**

44 ***[(3) The commission shall cause to have prepared legislative measures that would implement the***  
 45 ***commission's recommendations on salaries of officers subject to ORS 292.907 to 292.930 and all com-***

1 *pensation of members of the Legislative Assembly for the succeeding biennium.]*

2 **(3) The commission shall meet on or before September 1 of each even-numbered year to**  
 3 **review and establish the salaries. The commission may meet at other times as the commis-**  
 4 **sion determines necessary to carry out its duties. On or before October 31 of each even-**  
 5 **numbered year, the commission shall complete a report that lists the salaries established by**  
 6 **the commission and send the report to the Governor, the President of the Senate, the**  
 7 **Speaker of the House of Representatives and the Chief Justice of the Supreme Court.**

8 **(4) Subject to an appropriation made by law, the salaries established by the commission**  
 9 **take effect on July 1 of the odd-numbered year following the completion of the report de-**  
 10 **scribed in subsection (3) of this section unless, by May 1 of that odd-numbered year, the**  
 11 **Legislative Assembly passes a bill rejecting or amending the salaries and the bill is enacted**  
 12 **and takes effect on or before July 1 of that odd-numbered year. However, pursuant to sec-**  
 13 **tion 1, Article VII (Amended) of the Oregon Constitution, the salaries of the Chief Justice**  
 14 **of the Supreme Court and other judges may not be diminished during the term for which**  
 15 **they are elected.**

16 **SECTION 6.** ORS 292.917 is amended to read:

17 292.917. (1) The Public Officials Compensation Commission shall select one of its members as  
 18 chairperson and another as vice chairperson, for such terms and with **such** duties and powers nec-  
 19 essary for the performance of the functions of [*such*] **the** offices as the commission determines.

20 (2) A majority of the members of the commission constitutes a quorum for the transaction of  
 21 business.

22 **(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of the**  
 23 **members present is required for the commission to establish salaries under ORS 292.912.**

24 [*(3) The commission shall meet as frequently as the proper and efficient discharge of its duties may*  
 25 *require.*]

26 (4) A member of the commission [*shall be*] **is** eligible for compensation and expenses under ORS  
 27 292.495.

28 (5) The [*Personnel Division*] **Oregon Department of Administrative Services** shall assist the  
 29 [*Public Officials Compensation*] commission in carrying out its functions.

30 **SECTION 7.** ORS 292.930 is amended to read:

31 292.930. **Subject to an appropriation made by law,** each of the following elective officers shall  
 32 be paid an annual salary on a monthly basis as [*determined by the Legislative Assembly*] **established**  
 33 **under ORS 292.912** each biennium beginning July 1, [*1985*] **2009**:

34 (1) Governor.

35 (2) Secretary of State.

36 (3) State Treasurer.

37 (4) Attorney General.

38 (5) Superintendent of Public Instruction.

39 (6) Commissioner of the Bureau of Labor and Industries.

40 **(7) Chief Judge of the Court of Appeals.**

41 [(7)] **(8) Court of Appeals Judge.**

42 **(9) Chief Justice of the Supreme Court.**

43 [(8)] **(10) Supreme Court [*Justice*] Judge.**

44 [(9)] **(11) Circuit Court Judge.**

45 [(10)] **(12) Tax Court Judge.**

1       **(13) District attorney.**

2       **SECTION 8.** ORS 171.072 is amended to read:

3       171.072. (1) A member of the Legislative Assembly shall receive for services an annual salary  
4 **established under ORS 292.912.** *[of the greater of:]*

5       *[(a) One step below the maximum of Salary Range 1 in the Management Service Compensation*  
6 *Plan in the executive department as defined in ORS 174.112; or]*

7       *[(b) Seventeen percent of the salary of a Circuit Court Judge.]*

8       (2)(a) The President of the Senate and the Speaker of the House of Representatives each shall  
9 receive for services, as additional salary, an amount equal to the *[sum]* **salary** allowed each of them  
10 as a member under subsection (1) of this section.

11       **(b) The majority leader and minority leader of the Senate and the majority leader and**  
12 **minority leader of the House of Representatives each shall receive for services, as additional**  
13 **salary, an amount determined by the Public Officials Compensation Commission.**

14       (3) A member of the Legislative Assembly shall receive, as an allowance for expenses not oth-  
15 erwise provided for, a per diem determined as provided in subsection (9) of this section for each day  
16 within the period that the Legislative Assembly is in session, to be paid with the salary provided for  
17 in subsection (1) of this section. Pursuant to procedures determined by the Legislative Adminis-  
18 tration Committee, a member may draw from an accrued allowance.

19       (4) A member of the Legislative Assembly shall receive, as an allowance for expenses incurred  
20 in the performance of official duties during periods when the legislature is not in session, \$400 for  
21 each calendar month or part of a calendar month during those periods, to be paid monthly, and  
22 subject to approval of the President of the Senate or Speaker of the House of Representatives,  
23 mileage expenses and a per diem determined as provided in subsection (9) of this section for each  
24 day a member is engaged in the business of legislative interim and statutory committees, including  
25 advisory committees and subcommittees of advisory committees, and task forces and for each day  
26 a member serves on interstate bodies, advisory committees and other entities on which the member  
27 serves ex officio, whether or not the entity is a legislative one.

28       (5) In addition to the mileage and per diem expense payments provided by this section, a member  
29 of the Legislative Assembly may receive reimbursement for actual and necessary expenses, subject  
30 to approval by the President of the Senate or Speaker of the House of Representatives, for legisla-  
31 tive business outside of the state.

32       (6) The President of the Senate and **the** Speaker of the House of Representatives may delegate  
33 to the chairpersons of interim and statutory committees and task forces the approval authority  
34 granted to *[them]* **the President and Speaker** by subsection (4) of this section, with respect to ex-  
35 penses incurred in attending any meeting of a particular committee or task force.

36       (7) Amounts received under subsections (3) to (5) of this section are excluded from gross income  
37 and expenditures of the amounts are excluded in computing deductions for purposes of ORS chapter  
38 316. If there is attached to the personal income return a schedule of all ordinary and necessary  
39 business expenses paid during the tax year as a member of the Legislative Assembly, a deduction  
40 may be claimed on the return for legislative expenses paid in excess of the amounts received under  
41 subsections (3) to (5) of this section. Expenses of members of the Legislative Assembly *[that]* **who**  
42 are reimbursed by the state for actual expenses for meals and lodging associated with state travel  
43 for the same period during which a legislator receives per diem *[is]* **are** subject to state income tax.

44       (8) For periods when the Legislative Assembly is not in session, the Legislative Administration  
45 Committee shall provide for a telephone and an expense allowance for members of the Legislative

1 Assembly that is in addition to the amount allowed under subsection (4) of this section. In deter-  
 2 mining the amount of allowance for members, the committee shall consider the geographic area of  
 3 the member's district. The additional allowance shall reflect travel expenses necessary to communi-  
 4 cate in districts of varying sizes.

5 (9) The per diem allowance referred to in subsections (3) and (4) of this section shall be the  
 6 amount fixed for per diem allowance that is authorized by the United States Internal Revenue Ser-  
 7 vice to be excluded from gross income without itemization.

8 **SECTION 9.** ORS 8.690 is amended to read:

9 8.690. Upon request of a county officer, the district attorney and deputies of the district attorney  
 10 shall advise the county court and other county officers on all legal questions that may arise. When  
 11 [any] **an** action is instituted against [any] **a** county officer or county employee for damages for an  
 12 alleged wrongful act or omission in the performance of official duty, the district attorney shall de-  
 13 fend [such] **the** action. The district attorney shall also prosecute and defend all actions, suits[,] and  
 14 proceedings to which the county may be a party. For such services the district attorney shall re-  
 15 ceive no compensation other than salary **and any additional amounts paid under ORS 8.830.**

16 **SECTION 10.** ORS 8.790 is amended to read:

17 8.790. No salary, fees, percentage or compensation of any kind shall be allowed, paid to or re-  
 18 ceived by any district attorney or deputy district attorney except as provided in ORS 8.110 to 8.150,  
 19 8.160, [and] 8.670 to 8.852 **and 292.930.**

20 **SECTION 11.** ORS 8.852 is amended to read:

21 8.852. The district attorneys of the various counties shall be paid monthly salaries as [adopted  
 22 in the salary plan provided for in ORS 240.240 (2), to include salary adjustments awarded management  
 23 service employees] **provided in ORS 292.930.**

24 **SECTION 12.** ORS 292.430 is amended to read:

25 292.430. (1) In addition to the annual salaries [set forth in ORS 171.072 and 292.313] **established**  
 26 **under ORS 292.912**, the Oregon Department of Administrative Services may "pick-up," assume and  
 27 pay to the Public Employees Retirement Fund any employee contributions, otherwise required by  
 28 ORS 238.200, for the Governor, Secretary of State, State Treasurer, Attorney General, Superinten-  
 29 dent of Public Instruction, Commissioner of the Bureau of Labor and Industries, **district attorneys**  
 30 and members of the Legislative Assembly.

31 (2) The department may provide health, dental, life and long-term disability insurance without  
 32 cost to the officers referred to in subsection (1) of this section and to judges of the Supreme Court,  
 33 Court of Appeals, Oregon Tax Court and circuit courts in such amounts as are provided from time  
 34 to time to employees in the unclassified service of the state.

35 **SECTION 13.** ORS 292.313, 292.405, 292.410, 292.415, 292.425 and 292.920 are repealed.

36 **SECTION 14.** This 2007 Act does not take effect unless the amendment to the Oregon  
 37 Constitution proposed by House Joint Resolution 1 (2007) is approved by the people at a spe-  
 38 cial election held throughout this state on the same date as the next primary election. This  
 39 2007 Act takes effect on the effective date of that constitutional amendment.