

Senate Bill 413

Sponsored by Senator GIROD

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**.

Designates offices of state Senator and state Representative as nonpartisan.

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A BILL FOR AN ACT

Relating to the Legislative Assembly; creating new provisions; and amending ORS 171.051, 171.060, 171.068, 244.250, 249.002, 249.068, 249.072, 249.088, 249.200, 254.005, 254.056, 254.365 and 254.650.

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

SECTION 1. ORS 249.002 is amended to read:

249.002. As used in this chapter:

(1) "Candidate" means an individual whose name is or is expected to be printed on the official ballot.

(2) "County clerk" means the county clerk or the county official in charge of elections.

(3) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Constitution.

(4) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court, or any county judge who exercises judicial functions.

(5) "Member" means an individual who is registered as being affiliated with the political party.

(6) "Minor political party" means a political party that has qualified as a minor political party under ORS 248.008.

(7) "Nonpartisan office" means the office of judge, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries, **state Senator, state Representative**, any elected office of a metropolitan service district under ORS chapter 268, justice of the peace, county clerk, county assessor, county surveyor, county treasurer, sheriff, district attorney or any office designated nonpartisan by a home rule charter.

(8) "Prospective petition" means the information, except signatures and other identification of petition signers, required to be contained in a completed petition.

(9) "Public office" means any national, state, county, city or district office or position, except a political party office, filled by the electors.

(10) "State office" means Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, Superintendent of Public Instruction, judge, state Senator, state Representative or district attorney.

SECTION 2. ORS 254.005 is amended to read:

254.005. As used in this chapter:

(1) "Ballot" means any material on which votes may be cast for candidates or measures. In the case of a recall election, "ballot" includes material posted in a voting compartment or delivered to

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 an elector by mail.

2 (2) “Chief elections officer” means the:

3 (a) Secretary of State, regarding a candidate for a state office or an office to be voted on in the
4 state at large or in a congressional district, or a measure to be voted on in the state at large.

5 (b) County clerk, regarding a candidate for a county office, or a measure to be voted on in a
6 county only.

7 (c) City clerk, auditor or recorder, regarding a candidate for a city office, or a measure to be
8 voted on in a city only.

9 (3) “County clerk” means the county clerk or the county official in charge of elections.

10 (4) “Elector” means an individual qualified to vote under section 2, Article II, Oregon Consti-
11 tution.

12 (5) “Major political party” means a political party that has qualified as a major political party
13 under ORS 248.006.

14 (6) “Measure” includes any of the following submitted to the people for their approval or re-
15 jection at an election:

16 (a) A proposed law.

17 (b) An Act or part of an Act of the Legislative Assembly.

18 (c) A revision of or amendment to the Oregon Constitution.

19 (d) Local, special or municipal legislation.

20 (e) A proposition or question.

21 (7) “Minor political party” means a political party that has qualified as a minor political party
22 under ORS 248.008.

23 (8) “Nonpartisan office” means the office of judge of the Supreme Court, Court of Appeals, cir-
24 cuit court or the Oregon Tax Court, Superintendent of Public Instruction, Commissioner of the Bu-
25 reau of Labor and Industries, **state Senator, state Representative**, any elected office of a
26 metropolitan service district under ORS chapter 268, justice of the peace, county clerk, county
27 assessor, county surveyor, county treasurer, county judge who exercises judicial functions, sheriff,
28 district attorney or any office designated nonpartisan by a home rule charter.

29 (9) “Prospective petition” means the information, except signatures and other identification of
30 petition signers, required to be contained in a completed petition.

31 (10) “Regular district election” means the election held each year for the purpose of electing
32 members of a district board as defined in ORS 255.005 (2).

33 (11) “Vote tally system” means one or more pieces of equipment necessary to examine and tally
34 automatically the marked ballots.

35 (12) “Voting machine” means any device that will record every vote cast on candidates and
36 measures and that will either internally or externally total all votes cast on that device.

37 **SECTION 3.** ORS 254.056 is amended to read:

38 254.056. (1) The general election shall be held on the first Tuesday after the first Monday in
39 November of each even-numbered year. Except as provided in ORS 254.650, at the general election
40 officers of the state and subdivisions of the state, members of Congress and electors of President
41 and Vice President of the United States as are to be elected in that year shall be elected.

42 (2) The primary election shall be held on the third Tuesday in May of each even-numbered year.
43 At the primary election:

44 (a) Precinct committeepersons shall be elected and major political party candidates shall be
45 nominated for offices to be filled at the general election held in that year; **and**

1 **(b) Nonpartisan candidates shall be nominated or elected as provided in ORS 249.088.**

2 **SECTION 4.** ORS 254.650 is amended to read:

3 254.650. (1) If the Secretary of State determines that a vacancy exists in the nomination of a
4 candidate of a major political party for state office **or in the nomination of a nonpartisan can-**
5 **didate for the office of state Senator or state Representative**, that the vacancy is due to the
6 death of the candidate and that the vacancy occurred after the 30th day before the date of the
7 general election:

8 (a) The election for that state office **or for that office of state Senator or state Represen-**
9 **tative** may not be held at the general election;

10 (b) The county clerks may not count ballots cast for candidates for that state office at the
11 general election; and

12 (c) The Secretary of State shall order a special election as provided in ORS 254.655.

13 (2) The candidates listed on the ballot at the special election shall be:

14 (a) The candidates who were listed on the general election ballot, other than the candidate
15 whose nomination became vacant; and

16 (b) The candidate selected to fill the vacancy in the nomination as provided in ORS 249.190 or
17 249.205.

18 (3) As used in this section, "state office" means the office of Governor, Secretary of State, State
19 Treasurer[,], **or** Attorney General[, *state Senator or state Representative*].

20 **SECTION 5.** ORS 249.088 is amended to read:

21 249.088. (1) [*Unless otherwise provided by*] **Subject to subsections (2) to (4) of this section**
22 **and the provisions of** a home rule charter, at the [*nominating election held on the date of the*] pri-
23 mary election, **the two candidates receiving the highest number of votes** shall be nominated for
24 the nonpartisan office.

25 (2) [*However,*] **Except as provided in subsections (3) and (4) of this section**, when a
26 candidate[, *other than a candidate for the office of sheriff, a candidate for the office of county clerk,*
27 *a candidate for the office of county treasurer or a candidate to fill a vacancy,*] **for nonpartisan office**
28 receives a majority of the votes cast for the office at the nominating election, that candidate is
29 elected.

30 (3) **Subsection (2) of this section does not apply to the office of state Senator or state**
31 **Representative.**

32 [(2)] (4) When a candidate for the office of sheriff, [*the office of*] county clerk[, *the office of*] **or**
33 county treasurer or a candidate to fill a vacancy receives a majority of votes cast for the office at
34 the nominating election, that candidate alone is nominated.

35 **SECTION 6.** ORS 249.200 is amended to read:

36 249.200. (1) A major political party may nominate a candidate to fill a vacancy in a partisan
37 elective office in the following manner:

38 (a) If the vacancy occurs on or before the 70th day before a primary election, by selecting a
39 nominee at the next primary election; or

40 (b) If the vacancy occurs after the 70th day before the primary election but before the 61st day
41 before the general election, by selecting a nominee as provided by party rule.

42 (2) The procedure under subsection (1) of this section [*shall*] **does** not apply in any case in which
43 one of the following specific procedures for filling a vacancy applies:

44 (a) The procedure specified in ORS 188.120 for the offices of Representative in Congress and
45 United States Senator.

1 *[(b) The appointment procedure specified in ORS 171.051 to 171.064 for state legislative office.]*

2 *[(c)] (b) The procedure specified in ORS chapter 236 for county office.*

3 *[(d)] (c) The procedure specified in ORS chapter 221 for city office.*

4 (3) A party that selects a nominee under subsection (1)(b) of this section, immediately after the
5 nomination, shall notify the filing officer with whom a declaration of candidacy for the office is filed
6 of the name of the nominee by the most expeditious means practicable.

7 (4) The Secretary of State by rule may adopt a schedule specifying the period following a va-
8 cancy within which a major political party that selects a nominee under subsection (1)(b) of this
9 section must notify the filing officer of the name of the nominee under subsection (3) of this section.

10 **SECTION 7.** ORS 249.068 is amended to read:

11 249.068. (1) Except as otherwise provided for a candidate for nonpartisan office in ORS 249.072:

12 (a) A nominating petition for an office to be voted for in the state at large or for a candidate
13 for Representative in Congress shall contain signatures of members of the same major political party
14 as the candidate. Except as provided in this subsection, there shall be at least 1,000 signatures or
15 the number of signatures at least equal to two percent of the vote cast in the state or congressional
16 district, as the case may be, for the candidates of that major political party for presidential electors
17 at the last presidential election, whichever is less;

18 (b) For an election next following any change in the boundaries of a congressional district, there
19 shall be at least 1,000 signatures or the number of signatures at least equal to two percent of the
20 average number of votes cast in all congressional districts in this state, as the case may be, for the
21 candidates of that major political party for presidential electors at the last presidential election,
22 whichever is less;

23 (c) In the case of a candidate nominated by a major political party that did not nominate pres-
24 idential electors at the last presidential election, there shall be at least 1,000 signatures; and

25 (d) If the office is one to be voted for in the state at large, the signatures shall include those
26 of electors registered in at least five percent of the precincts in each of at least seven counties. If
27 the office is one to be voted for in a congressional district the signatures shall include those of
28 electors registered in at least five percent of the precincts in each of at least one-fourth of the
29 counties in the congressional district.

30 (2) Except as otherwise provided in this section or for a candidate for nonpartisan office in ORS
31 249.072:

32 (a) A nominating petition for an office not provided for in subsection (1) of this section shall
33 contain the signatures of electors who are members of the same major political party as the candi-
34 date. There shall be at least 500 signatures or the number of signatures at least equal to two percent
35 of the vote in the electoral district for the candidates of that major political party for presidential
36 electors at the last presidential election, whichever is less;

37 *[(b) In the case of major political party candidates for the office of state Senator or state Repre-*
38 *sentative, for an election next following any change in the boundaries of the districts of state Senators*
39 *or state Representatives under section 6, Article IV of the Oregon Constitution, there shall be at least*
40 *500 signatures or the number of signatures at least equal to two percent of the average number of votes*
41 *cast in all state senatorial or state representative districts in this state, as the case may be, for the*
42 *candidates of that major political party for presidential electors at the last presidential election,*
43 *whichever is less;]*

44 *[(c)] (b) In the case of a candidate nominated by a major political party that did not nominate*
45 *presidential electors at the last presidential election, there shall be at least 500 signatures;*

1 [(d)] (c) If the office under this subsection is to be voted for in more than one county, the sig-
 2 natures shall include those of electors registered in at least six percent of the precincts in the
 3 electoral district that are located in each of two or more of the counties, or portions of the counties,
 4 within which the electoral district is located. If six percent of the precincts of the electoral district
 5 in one of the counties or portion thereof does not constitute a whole precinct, the nominating peti-
 6 tion shall contain signatures from at least one precinct in that county; and

7 [(e)] (d) If the office is to be voted for in only one county or in a city, the signatures shall in-
 8 clude those of electors registered in at least 10 percent of the precincts in the electoral district.

9 **SECTION 8.** ORS 249.072 is amended to read:

10 249.072. (1) If the nonpartisan office is to be voted for in the state at large, the nominating pe-
 11 tition shall contain at least 1,000 signatures of electors, or a number of signatures of electors equal
 12 to at least one percent of the vote cast in the state for all candidates for Governor at the most re-
 13 cent election at which a candidate for Governor was elected to a full term, whichever is less. The
 14 signatures shall include those of electors registered in each of at least five percent of the precincts
 15 in each of at least seven counties.

16 (2) The nominating petition for a nonpartisan office not provided for in subsection (1) of this
 17 section shall contain at least 500 signatures of electors in the electoral district, or a number of
 18 signatures of electors equal to at least one percent of the vote cast in the electoral district for all
 19 candidates for Governor at the most recent election at which a candidate for Governor was elected
 20 to a full term, whichever is less. **In the case of candidates for the office of state Senator or the**
 21 **office of state Representative, for an election next following any change in the boundaries**
 22 **of the districts of state Senators or state Representatives under section 6, Article IV of the**
 23 **Oregon Constitution, the nominating petition shall contain at least 500 signatures, or the**
 24 **number of signatures equal to at least one percent of the average number of votes cast in**
 25 **all state senatorial or state representative districts in this state, as the case may be, for all**
 26 **candidates for presidential electors at the last presidential election, whichever is less.** In ad-
 27 dition:

28 (a) If an office under this subsection is to be voted for in more than one county, the signatures
 29 shall include those of electors registered in each of at least six percent of the precincts in the
 30 electoral district that are located in each of two or more of the counties, or portions of the counties,
 31 within which the electoral district is located. If six percent of the precincts of the electoral district
 32 in one of the counties or portion thereof does not constitute a whole precinct, the nominating peti-
 33 tion shall contain signatures from at least one precinct in that county.

34 (b) If the office is to be voted for in only one county or in a city, the signatures shall include
 35 those of electors registered in each of at least 10 percent of the precincts in the electoral district.

36 **SECTION 9.** ORS 254.365 is amended to read:

37 254.365. (1) An elector is not qualified or permitted to vote at any primary election for any
 38 candidate of a major political party, and it is unlawful for the elector to offer to do so, unless:

39 (a) The elector is registered as being affiliated with one of the major political parties nominating
 40 or electing its candidates for public office at the primary election; or

41 (b) The elector is registered as not being affiliated with any political party and wishes to vote
 42 in the primary election of a major political party that has provided under subsection (3) of this
 43 section for a primary election that admits electors not affiliated with any political party.

44 (2) Except as provided in ORS 254.470 (3), any elector offering to vote at the primary election
 45 shall be given a ballot of the major political party with which the elector is registered as being af-

1 filiated. The elector may not be given a ballot of any other political party at that primary election.
 2 An elector not affiliated with any political party and offering to vote at the primary election shall
 3 be given the ballot of the major political party in whose primary election the elector wishes to vote
 4 if that party has provided under subsection (3) of this section for a primary election that admits
 5 electors not affiliated with any political party. An elector not affiliated with any political party who
 6 is given a ballot of the major political party associates with the party for the purpose of voting in
 7 that primary election.

8 (3)[(a)] Not later than the 90th day before the date of the primary election, a major political
 9 party may file with the Secretary of State a certified copy of the current party rule allowing an
 10 elector not affiliated with any political party to vote in the party's primary election. The party may
 11 not repeal the rule as filed during the 90 days before the primary election. The rule shall continue
 12 to be effective after the date of the primary election until the party gives written notice to the
 13 Secretary of State that the rule has been repealed. [*Except as provided in paragraph (b) of this sub-*
 14 *section,*] A party rule under this subsection may limit the candidates for whom an elector who is not
 15 affiliated with any political party may vote.

16 [(b) *The party rule shall allow any elector who is permitted to vote for the most numerous branch*
 17 *of the Legislative Assembly also to vote in federal legislative elections, consistent with section 2, Article*
 18 *I, and the Seventeenth Amendment to the United States Constitution.*]

19 (4) If the primary election ballot includes city, county or nonpartisan offices or measures, and
 20 it is given to an elector who is not eligible to vote for party candidates, the ballot shall be marked
 21 "non-affiliated."

22 **SECTION 10.** ORS 171.051 is amended to read:

23 171.051. (1) When any vacancy occurs in the Legislative Assembly due to death or recall or by
 24 reason of resignation filed in writing with the Secretary of State or a person is declared disqualified
 25 by the house to which the person was elected, the vacancy shall be filled by appointment if:

26 (a) The vacancy occurs during any session of the Legislative Assembly;

27 (b) The vacancy occurs in the office of a state Representative before the 61st day before the
 28 general election to be held during that term of office;

29 (c) The vacancy occurs in the office of a state Senator before the 61st day before the first gen-
 30 eral election to be held during that term of office;

31 (d) The vacancy occurs in the office of a state Senator at any time after the 62nd day before the
 32 first general election and before the 61st day before the second general election to be held during
 33 that term of office; or

34 (e) A special session of the Legislative Assembly will be convened before a successor to the of-
 35 fice can be elected and qualified.

36 (2) The person appointed under the provisions of subsection (1) of this section shall be a citizen
 37 qualified to hold the office[,] **and** an elector of the affected legislative district [*and a member of the*
 38 *same political party for at least 180 days before the date on which the vacancy occurred. The political*
 39 *affiliation of a person appointed under subsection (1) of this section shall be determined under ORS*
 40 *236.100]. The appointment shall be made by the county courts or boards of county commissioners*
 41 *of the affected counties pursuant to ORS 171.060 to 171.064. [When the provisions of ORS 171.060 (1)*
 42 *are applicable, the appointment shall be made from a list of not fewer than three nor more than five*
 43 *nominees who have signed written statements indicating that they are willing to serve furnished by the*
 44 *Secretary of State. If fewer than three names of nominees are furnished, a list shall not be considered*
 45 *to have been submitted and the county courts or boards of county commissioners shall fill the*

1 *vacancy.*] The vacancy must be filled by appointment within 30 days after its occurrence or not later
 2 than the time set for the convening of the special session described in subsection (1)(e) of this sec-
 3 tion when that is the basis for filling the vacancy.

4 (3) If the appointing authority required by this section to fill the vacancy does not do so within
 5 the time allowed, the Governor shall fill the vacancy by appointment within 10 days.

6 (4) Notwithstanding any appointment under the provisions of subsection (1)(c) of this section,
 7 when a vacancy occurs in the office of a state Senator before the 61st day before the first general
 8 election to be held during that term of office, the remaining two years of the term of office shall
 9 be filled by the electors of the affected legislative district at the first general election.

10 (5) Candidates for the remaining two years of the term of office of a state Senator under sub-
 11 section (4) of this section shall be nominated as provided in ORS chapter 249, *[except as follows:]*

12 *[(a) A major political party, minor political party, assembly of electors or individual electors may*
 13 *select a nominee for any vacancy occurring before the 61st day before the first general election; and]*

14 *[(b) The Secretary of State shall accept certificates of nomination and notifications of nominees se-*
 15 *lected by party rule and filed with the secretary] except that the Secretary of State shall accept*
 16 **nominating petitions or declarations of candidacy** pursuant to a schedule for filing set by the
 17 Secretary of State but in any case not later than the 62nd day before the first general election.

18 (6) The remaining two years of the term of office of a state Senator under subsection (4) of this
 19 section will commence on the second Monday in January following the general election. Any ap-
 20 pointment under the provisions of subsection (1)(c) of this section shall expire when a successor to
 21 the office is elected and qualified.

22 **SECTION 11.** ORS 171.060 is amended to read:

23 171.060. *[(1) When any vacancy as is mentioned in ORS 171.051 exists in the office of Senator or*
 24 *Representative affiliated with a major political party and that vacancy is to be filled by an appointing*
 25 *authority as provided in ORS 171.051, the Secretary of State forthwith shall notify the person desig-*
 26 *nated by the party to receive such notice. The party shall pursuant to party rule nominate not fewer*
 27 *than three nor more than five qualified persons to fill the vacancy. The nominating procedure shall*
 28 *reflect the principle of one-person, one-vote to accord voting weight in proportion to the number of party*
 29 *members represented. At the request of a party making a nomination, the county clerks of each county*
 30 *constituting the district in which the vacancy exists shall assist the party in determining the number*
 31 *of electors registered as members of the party in the district. A person shall not be nominated to fill*
 32 *the vacancy unless the person signs a written statement indicating that the person is willing to serve*
 33 *in the office of Senator or Representative. As soon as the nominees have been appointed, but no later*
 34 *than 20 days after the vacancy occurs, the party shall notify the Secretary of State of the persons*
 35 *nominated. The notification shall be accompanied by the signed written statement of each nominee in-*
 36 *dicating that the nominee is willing to serve in the office of Senator or Representative. The Secretary*
 37 *of State shall notify the county courts or boards of county commissioners of the counties constituting*
 38 *the district in which the vacancy exists of the nominees and of the number of votes apportioned to each*
 39 *member of the county courts or boards of county commissioners under ORS 171.062 and 171.064. The*
 40 *Secretary of State shall set a time for the meeting of the county courts or boards of county commis-*
 41 *sioners in order to fill the vacancy and by rule shall establish procedures for the conduct of the meet-*
 42 *ing. If the district is composed of more than one county, the Secretary of State shall name a temporary*
 43 *chairperson and designate a meeting place within the district where the county courts or boards of*
 44 *county commissioners shall convene for the purpose of filling the vacancy, pursuant to ORS 171.051*
 45 *(2).]*

1 [(2)] (1) When any vacancy [*as is mentioned*] **described** in ORS 171.051 exists in the office of
 2 **state** Senator or **state** Representative [*not affiliated with a major political party*] and that vacancy
 3 is to be filled by an appointing authority as provided in ORS 171.051, the Secretary of State forth-
 4 with shall notify the county courts or boards of county commissioners of the counties constituting
 5 the district in which the vacancy occurs of the vacancy and of the number of votes apportioned to
 6 each member of the county courts or boards of county commissioners under ORS 171.062 and
 7 171.064. The Secretary of State shall set a time for a meeting of the county courts or boards of
 8 county commissioners and by rule shall establish procedures for the conduct of the meeting. If the
 9 district is composed of more than one county, the Secretary of State shall name a temporary chair-
 10 person and designate a meeting place within the district where the county courts or boards of
 11 county commissioners shall convene for the purpose of appointing a person to fill the vacancy.

12 [(3)] (2) A written statement signed by a majority of those qualified to vote upon the filling of
 13 any vacancy naming the person selected to fill the vacancy and directed to the Secretary of State
 14 is conclusive evidence of the filling of the vacancy by the appointing authority named therein.

15 **SECTION 12.** ORS 171.068 is amended to read:

16 171.068. (1) For purposes of ORS 171.060, 171.062 and 171.064, the county court or the board of
 17 county commissioners [*which shall*] **that must** fill the vacancy in the Legislative Assembly in a
 18 district created by reapportionment shall be the county court or board of county commissioners of
 19 each county any part of which is in the district that is created by the reapportionment and includes
 20 the residence from which the former **state** Senator or **state** Representative was elected.

21 (2) [*Each person nominated by a major political party to fill a vacancy in the Legislative Assembly*
 22 *occurring as described by ORS 171.051*] **A person appointed to fill a vacancy in the Legislative**
 23 **Assembly** in a district created by reapportionment must be registered to vote in the district from
 24 which the former **state** Senator or **state** Representative was elected [*and must have been a member*
 25 *of the same major political party at least 180 days before the date the vacancy to be filled occurred*].

26 (3) This section [*shall apply*] **applies** only to a vacancy in the Legislative Assembly occurring
 27 after the primary election next following reapportionment and before a person has been elected and
 28 qualified to fill the vacancy.

29 **SECTION 13.** ORS 244.250 is amended to read:

30 244.250. (1) The Oregon Government Ethics Commission is established, consisting of seven
 31 members. The appointment of a member of the commission is subject to confirmation by the Senate
 32 in the manner provided in ORS 171.562 and 171.565. Members shall be appointed in the following
 33 manner:

34 (a) The Governor shall appoint four members from among persons recommended, [*one*] **two** each
 35 by the leadership of [*the Democratic and Republican parties in*] each house of the Legislative As-
 36 sembly. **The leadership of each house of the Legislative Assembly shall recommend persons**
 37 **who are not members of the same major political party.** If a person recommended [*by the lead-*
 38 *ership of the Democratic or Republican party*] **under this paragraph** is not approved by the Gover-
 39 nor, the leadership shall recommend another person.

40 (b) The Governor shall appoint three members without leadership recommendation. No more
 41 than two members appointed under this paragraph may be members of the same major political
 42 party.

43 (2) A person who holds any public office listed in ORS 244.050 (1) except as a member of the
 44 commission may not be appointed to the commission. No more than four members may be members
 45 of the same political party.

1 (3) The term of office of a member is four years. A member is not eligible to be appointed to
 2 more than one full term but may serve out an unexpired term. Vacancies shall be filled by the ap-
 3 pointing authority for the unexpired term.

4 (4) The commission shall elect a chairperson and vice chairperson for such terms and duties as
 5 the commission may require.

6 (5) A quorum consists of four members but a final decision may not be made without an affir-
 7 mative vote of a majority of the members appointed to the commission.

8 (6) Members shall be entitled to compensation and expenses as provided in ORS 292.495.

9 (7) The commission may retain or appoint qualified legal counsel who must be a member of the
 10 Oregon State Bar and who is responsible to the commission. The appointment of legal counsel under
 11 this subsection may be made only when the commission finds it is inappropriate and contrary to the
 12 public interest for the office of the Attorney General to represent concurrently more than one public
 13 official or agency in any matter before the commission because the representation:

14 (a) Would create or tend to create a conflict of interest; and

15 (b) Is not subject to ORS 180.230 or 180.235.

16 (8) The Attorney General may not represent before the commission any state public official who
 17 is the subject of any complaint or action of the commission at the commission's own instigation.

18 **SECTION 14. (1) The amendments to ORS 171.051, 171.060, 171.068, 249.002, 249.068,**
 19 **249.072, 249.088, 249.200, 254.005, 254.056, 254.365 and 254.650 by sections 1 to 12 of this 2009**
 20 **Act apply only to nominations for, and appointments and elections to, the offices of state**
 21 **Senator and state Representative occurring on or after the effective date of this 2009 Act.**
 22 **A certificate of nomination, nominating petition or declaration of candidacy for the office of**
 23 **state Senator or state Representative filed before the effective date of this 2009 Act for an**
 24 **election to be conducted on or after the effective date of this 2009 Act shall be considered**
 25 **to have been filed for a nonpartisan office.**

26 (2) Nothing in the amendments to ORS 244.250 by section 13 of this 2009 Act is intended
 27 to require a change in the composition of the Oregon Government Ethics Commission.

28