

**Enrolled**  
**Senate Bill 562**

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Law Commission)

CHAPTER .....

AN ACT

Relating to Oregon Law Commission; creating new provisions; amending ORS 173.315, 173.325, 173.328, 173.335, 173.338, 173.342 and 173.352; and declaring an emergency.

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

**SECTION 1.** ORS 173.315 is amended to read:

173.315. (1) The Oregon Law Commission is established to conduct a continuous substantive law revision program[, *including but not limited to the subjects stated*] **as described** in ORS 173.338.

(2) The Oregon Law Commission [*shall consist of*] **has 15 members, as follows:**

[(a) *Two persons, at least one of whom is a Senator at the time of appointment, appointed by the President of the Senate;*]

[(b) *Two persons, at least one of whom is a Representative at the time of appointment, appointed by the Speaker of the House of Representatives;*]

**(a) A person appointed by the President of the Senate who is a member of the Senate at the time of appointment;**

**(b) A person appointed by the President of the Senate who is a current or former member of the Senate at the time of appointment;**

**(c) A person appointed by the Speaker of the House of Representatives who is a member of the House of Representatives at the time of appointment;**

**(d) A person appointed by the Speaker of the House of the Representatives who is a current or former member of the House of Representatives at the time of appointment;**

[(c)] **(e)** The deans of Oregon's accredited law schools, or their designees;

[(d)] **(f)** Three persons [*designated*] **appointed** by the Board of Governors of the Oregon State Bar;

[(e)] **(g)** The Attorney General, or the Attorney General's designee;

[(f)] **(h)** The Chief Justice of the Supreme Court, or the Chief Justice's designee; [*and*]

**(i) The Chief Judge of the Court of Appeals, or the Chief Judge's designee;**

**(j) A person appointed by the Chief Justice of the Supreme Court who is a circuit court judge, or a retired circuit court judge who has been designated as a senior judge under ORS 1.300, at the time of appointment; and**

[(g)] **(k)** One person appointed by the Governor.

[(3) *The term of office of each appointed member of the Oregon Law Commission is two years. Before the expiration of the term of a member, the appointing authority shall appoint a successor whose term begins on September 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effec-*]

*tive for the unexpired term. A member shall be removed from the commission if the member misses three consecutive meetings without prior approval of the chairperson.]*

**(3) The Attorney General, the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals and the deans of Oregon's accredited law schools are ex officio members of the commission and have the same powers as appointed members.**

**(4)(a) Except as provided in paragraph (b) of this subsection, appointed members of the commission serve four-year terms. Terms commence on July 1 of even-numbered years. Before the expiration of the four-year term, the appointing authority shall appoint a successor. A person who has served as a member is eligible for reappointment.**

**(b) A person appointed under subsection (2)(a) of this section serves a term of four years, or until the person ceases to be a member of the Senate, whichever occurs first. A person appointed under subsection (2)(c) of this section serves a term of four years, or until the person ceases to be a member of the House of Representatives, whichever occurs first.**

**(5) If there is a vacancy in the position of an appointed member:**

**(a) The appointing authority shall appoint a person as soon as possible to serve during the remainder of the unexpired term; and**

**(b) The appointing authority may specify that the person appointed to serve the remainder of the unexpired term is also appointed to the next following full term.**

**(6) If a member of the commission is authorized under subsection (2) of this section to name a designee, a person named as a designee has all of the powers and duties of the member until the designation expires or is revoked. The following persons may be designated:**

**(a) A dean of one of Oregon's accredited law schools may designate a member of the faculty of the law school.**

**(b) The Chief Justice may designate a Supreme Court judge.**

**(c) The Chief Judge of the Court of Appeals may designate another judge of the Court of Appeals.**

**(d) The Attorney General may designate an assistant attorney general or the Deputy Attorney General.**

**(7) The term of an appointed member of the commission shall cease if the member misses three consecutive meetings without prior approval of the chairperson, and the appointing authority for the position shall appoint a person to fill the vacancy in the manner provided by subsection (5) of this section.**

**[4] (8) The Oregon Law Commission shall elect its chairperson and vice chairperson from among the members with such powers and duties as the commission shall determine.**

**[5] (9) A majority of the members of the commission constitutes a quorum for the transaction of business. If a quorum is present at a meeting, the commission may take action by an affirmative vote by a majority of the members of the commission who are present.**

**SECTION 2. (1) The member of the Oregon Law Commission who is serving on the effective date of this 2009 Act and who is a member of the Senate shall be considered to have been appointed under ORS 173.315 (2)(a), as in effect on the effective date of this 2009 Act.**

**(2) The member of the Oregon Law Commission who is serving on the effective date of this 2009 Act and who is a member of the House of Representatives shall be considered to have been appointed under ORS 173.315 (2)(c), as in effect on the effective date of this 2009 Act.**

**(3) Notwithstanding ORS 173.315 (2)(b), the person who was appointed under ORS 173.315 (2)(a), as in effect immediately before the effective date of this 2009 Act, and who was not a current or former member of the Senate at the time of the appointment, may continue to serve as a member of the Oregon Law Commission and be reappointed by the President of the Senate under ORS 173.315 (2)(b) even though the person is not a current or former member of the Senate at the time of reappointment. When the person described in this subsection ceases membership with the commission, a person shall be appointed with the**

qualifications specified in ORS 173.315 (2)(b), as in effect on the effective date of this 2009 Act.

(4) Unless the term of the member is lengthened or shortened by the Oregon Law Commission under subsection (5) of this section, the term of an appointed member of the commission serving on the effective date of this 2009 Act ends on June 30 of the year in which the term of the member would otherwise have ended under ORS 173.315 (3), as in effect immediately before the effective date of this 2009 Act.

(5) Notwithstanding the two-year term of office specified for members of the Oregon Law Commission under ORS 173.315 (3), as in effect immediately before the effective date of this 2009 Act, for the purpose of staggering the terms of appointed members, the commission may establish terms that are longer or shorter than two years for the appointed members of the commission who are serving on the effective date of this 2009 Act. The term established by the commission under this subsection may not exceed four years and must end on June 30 of the year specified by the commission.

(6) Notwithstanding the four-year term of office specified for appointed members of the Oregon Law Commission in ORS 173.315 (4), the commission may establish a term that is shorter than four years for the first person appointed under ORS 173.315 (2)(j). The term established under this subsection must end on June 30 of the year specified by the commission.

**SECTION 3.** ORS 173.325 is amended to read:

173.325. (1) **A member of the Legislative Assembly who serves as a member of the Oregon Law Commission, or on any work group established under ORS 173.352, may receive actual and necessary travel and other expenses under ORS 171.072 from funds appropriated to the Legislative Assembly.**

(2) A member of the Oregon Law Commission who is not a member of the Legislative Assembly shall receive no compensation for services as a member but, subject to any other applicable law regulating travel and other expenses for state officers, may receive actual and necessary travel and other expenses incurred in the performance of official duties, providing funds are appropriated therefor in the budget of the Legislative Counsel Committee.

**SECTION 4.** ORS 173.328 is amended to read:

173.328. The Oregon Law Commission shall meet [*at least once every three months at a place, day and hour determined*] **regularly pursuant to a schedule established** by the commission. The commission also shall meet at other times and places specified by the call of the chairperson or of a majority of the members of the commission.

**SECTION 5.** ORS 173.335 is amended to read:

173.335. [(1)] The Legislative Counsel shall assist the Oregon Law Commission to carry out its functions as provided by law **and shall provide necessary drafting services to the commission as legislative priorities permit.**

[(2) *The Legislative Counsel pursuant to subsection (1) of this section shall:*]

[(a) *Coordinate research for, and preparation of, legislative proposals, as requested by the commission.*]

[(b) *Examine the published opinions of any judge of the Supreme Court, the Court of Appeals and the Oregon Tax Court of this state for the purpose of discovering and reporting to the commission any statutory defects, anachronisms or omissions mentioned therein.*]

[(c) *Receive suggestions and proposed changes in the law from interested persons, and bring such suggestions and proposals to the attention of the commission.*]

[(d) *Perform such other services as are necessary to enable the commission to carry out its functions as provided by law.*]

**SECTION 6.** ORS 173.338 is amended to read:

173.338. (1) [*The specific subject areas to be part of*] The law revision program [*of*] **conducted** by the Oregon Law Commission **may** include, but [*are*] **is** not limited to:

(a) **Review of** the common law and statutes of the state, and current judicial decisions, for the purpose of discovering defects and anachronisms in the law [*and recommending needed reforms*].

(b) [*Proposed*] **Consideration of** changes in the law recommended by the American Law Institute, the National Conference of Commissioners on Uniform State Laws, any bar association or other learned bodies.

(c) **Consideration of** suggestions from judges, justices, public officials, lawyers and the public generally as to defects and anachronisms in the law.

(d) [*Such*] **Recommendation for** changes in the law [*as*] **that** the commission considers necessary to modify or eliminate antiquated and inequitable rules of law and to bring the law of Oregon into harmony with modern conditions.

(e) **Recommendation for** the express repeal of [*all*] statutes repealed by implication or held unconstitutional by state and federal courts.

[*(2) The Legislative Counsel shall provide necessary drafting services as legislative priorities permit.*]

**(2) The commission shall study any topic that the Legislative Assembly, by law or concurrent resolution, refers to the commission.**

**SECTION 7.** ORS 173.342 is amended to read:

173.342. [*(1)*] The Oregon Law Commission shall file a report at each regular session of the Legislative Assembly that [*shall contain*] **contains** recommendations for statutory and administrative changes and a calendar of topics selected by the commission for study, including a list of the studies in progress and a list of topics intended for future consideration.

[*(2) The commission shall also study any topic that the Legislative Assembly, by concurrent resolution, refers to it for such study.*]

**SECTION 8.** ORS 173.352 is amended to read:

173.352. (1) To aid and advise the Oregon Law Commission in the performance of its functions, the commission may establish [*such advisory and technical committees as the commission considers necessary*] **work groups**. [*These committees*] **Work groups established by the commission** may be continuing or temporary. The commission shall determine the representation, membership, terms and organization of [*the committees*] **work groups** and shall appoint [*their*] **work group** members.

(2) Members of [*the committees*] **work groups established by the commission** are not entitled to compensation, but in the discretion of the commission may be reimbursed from funds available to the commission for actual and necessary travel and other expenses incurred in the performance of their official duties.

**SECTION 9. This 2009 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect on its passage.**

**Passed by Senate March 18, 2009**

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Secretary of Senate

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President of Senate

**Passed by House May 11, 2009**

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Speaker of House

**Received by Governor:**

.....M,....., 2009

**Approved:**

.....M,....., 2009

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Governor

**Filed in Office of Secretary of State:**

.....M,....., 2009

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Secretary of State