

Senate Bill 562

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

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**.

Adds two members to Oregon Law Commission. Modifies qualifications for certain members of commission. Increases terms of appointed members from two years to four years. Makes other changes to commission procedures and duties.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to Oregon Law Commission; creating new provisions; amending ORS 173.315, 173.325,
3 173.328, 173.335, 173.338, 173.342 and 173.352; and declaring an emergency.

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

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

6 173.315. (1) The Oregon Law Commission is established to conduct a continuous substantive law
7 revision program[, *including but not limited to the subjects stated*] **as described** in ORS 173.338.

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

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

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

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

15 **(b) A person appointed by the President of the Senate who is a current or former mem-**
16 **ber of the Senate at the time of appointment;**

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

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

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

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

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

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

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

27 **(j) A person appointed by the Chief Justice of the Supreme Court who is a circuit court**
28 **judge, or a retired circuit court judge who has been designated as a senior judge under ORS**
29 **1.300, at the time of appointment; and**

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

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 *[(3) The term of office of each appointed member of the Oregon Law Commission is two years.*
 2 *Before the expiration of the term of a member, the appointing authority shall appoint a successor whose*
 3 *term begins on September 1 next following. A member is eligible for reappointment. If there is a va-*
 4 *cancy for any cause, the appointing authority shall make an appointment to become immediately effec-*
 5 *tive for the unexpired term. A member shall be removed from the commission if the member misses*
 6 *three consecutive meetings without prior approval of the chairperson.]*

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

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

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

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

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

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

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

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

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

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

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

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

37 **[(4)] (8) The Oregon Law Commission shall elect its chairperson and vice chairperson from**
 38 **among the members with such powers and duties as the commission shall determine.**

39 **[(5)] (9) A majority of the members of the commission constitutes a quorum for the transaction**
 40 **of business. If a quorum is present at a meeting, the commission may take action by an af-**
 41 **firmative vote by a majority of the members of the commission who are present.**

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

45 **(2) The member of the Oregon Law Commission who is serving on the effective date of**

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

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

13 (4) Unless the term of the member is lengthened or shortened by the Oregon Law Com-
 14 mission under subsection (5) of this section, the term of an appointed member of the com-
 15 mission serving on the effective date of this 2009 Act ends on June 30 of the year in which
 16 the term of the member would otherwise have ended under ORS 173.315 (3), as in effect im-
 17 mediately before the effective date of this 2009 Act.

18 (5) Notwithstanding the two-year term of office specified for members of the Oregon Law
 19 Commission under ORS 173.315 (3), as in effect immediately before the effective date of this
 20 2009 Act, for the purpose of staggering the terms of appointed members, the commission
 21 may establish terms that are longer or shorter than two years for the appointed members
 22 of the commission who are serving on the effective date of this 2009 Act. The term estab-
 23 lished by the commission under this subsection may not exceed four years and must end on
 24 June 30 of the year specified by the commission.

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

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

31 173.325. (1) A member of the Legislative Assembly who serves as a member of the Oregon
 32 Law Commission, or on any work group established under ORS 173.352, may receive actual
 33 and necessary travel and other expenses under ORS 171.072 from funds appropriated to the
 34 Legislative Assembly.

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

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

41 173.328. The Oregon Law Commission shall meet [*at least once every three months at a place, day*
 42 *and hour determined*] **regularly pursuant to a schedule established** by the commission. The com-
 43 mission also shall meet at other times and places specified by the call of the chairperson or of a
 44 majority of the members of the commission.

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

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

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

5 [(a) *Coordinate research for, and preparation of, legislative proposals, as requested by the com-*
 6 *mission.*]

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

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

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

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

15 173.338. (1) [*The specific subject areas to be part of*] The law revision program [*of*] **conducted**
 16 **by** the Oregon Law Commission **may** include, but [*are*] **is** not limited to:

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

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

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

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

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

29 [(2) *The Legislative Counsel shall provide necessary drafting services as legislative priorities per-*
 30 *mit.*]

31 **(2) The commission shall study any topic that the Legislative Assembly, by law or con-**
 32 **current resolution, refers to the commission.**

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

34 173.342. [(1)] The Oregon Law Commission shall file a report at each regular session of the
 35 Legislative Assembly that [*shall contain*] **contains** recommendations for statutory and administrative
 36 changes and a calendar of topics selected by the commission for study, including a list of the studies
 37 in progress and a list of topics intended for future consideration.

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

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

41 173.352. (1) To aid and advise the Oregon Law Commission in the performance of its functions,
 42 the commission may establish [*such advisory and technical committees as the commission considers*
 43 *necessary*] **work groups**. [*These committees*] **Work groups established by the commission** may be
 44 continuing or temporary. The commission shall determine the representation, membership, terms and
 45 organization of [*the committees*] **work groups** and shall appoint [*their*] **work group** members.

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

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

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