

Enrolled
Senate Bill 75

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CHAPTER

AN ACT

Relating to disability of the Governor; creating new provisions; and repealing ORS 176.040 and 176.050.

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

SECTION 1. Temporary transfer of power. The Governor may at any time declare that the Governor expects to be temporarily disabled for a period of time and will not be able to discharge the duties of the office during that period of time. The Governor shall indicate the date and time that the period of disability will commence, and an estimate of the length of time during which the Governor will be disabled. Upon the date and time specified by the Governor, the person charged with assuming the duties of the office under Article V, section 8a of the Oregon Constitution, shall commence serving as Acting Governor. Upon the Governor declaring that the period of disability has ended, the Acting Governor shall immediately cease to perform those duties and the Governor shall resume performance of the duties of the office of Governor.

SECTION 2. Disability evaluation panel. (1) A disability evaluation panel consists of the following five members:

(a) The Chief Justice of the Oregon Supreme Court. If the Chief Justice is unable or unwilling to serve on the panel when the panel is convoked, the Chief Judge of the Court of Appeals shall serve as a member instead of the Chief Justice.

(b) A judge serving on the Oregon Supreme Court, or the Court of Appeals, designated by the Governor in the manner provided by subsection (2) of this section.

(c) A person who is licensed as a physician under ORS chapter 677, designated by the Governor in the manner provided by subsection (3) of this section.

(d) A person who is licensed as a physician under ORS chapter 677, designated by the dean of the Oregon Health and Science University School of Medicine in the manner provided by subsection (4) of this section. To the extent possible, the designee shall have the appropriate expertise to determine whether the Governor is suffering from a physical or mental disability that prevents the Governor from discharging the duties of the office.

(e) A person who is licensed as a physician under ORS chapter 677, designated by the Director of Human Services in the manner provided by subsection (5) of this section. To the extent possible, the designee shall have the appropriate expertise to determine whether the Governor is suffering from a physical or mental disability that prevents the Governor from discharging the duties of the office.

(2) As soon as possible after taking the oath of office, the Governor shall designate a person to serve as a member on the disability evaluation panel under subsection (1)(b) of this section. The Governor shall also designate at that time a first and second alternate for the position with the qualifications specified in subsection (1)(b) of this section to serve in the event that the person designated by the Governor is unable or unwilling to serve on the panel when the panel meets. The Governor shall file the names of the member and alternates designated under this section with the Secretary of State.

(3) As soon as possible after taking the oath of office, the Governor shall designate a person to serve as a member on the disability evaluation panel under subsection (1)(c) of this section. The Governor shall also designate at that time a first and second alternate for the position with the qualifications specified in subsection (1)(c) of this section to serve in the event that the person designated by the Governor is unable or unwilling to serve on the panel when the panel meets. The Governor shall file the names of the member and alternates designated under this section with the Secretary of State.

(4) As soon as possible after the disability evaluation panel is convoked, the dean of the Oregon Health and Science University School of Medicine shall designate a person to serve as a member on the disability evaluation panel under subsection (1)(d) of this section. The dean shall also designate at that time a first, second and third alternate for the position with the qualifications specified in subsection (1)(d) of this section to serve in the event that the person designated by the dean is unable or unwilling to serve on the panel when the panel is convoked. The dean shall file the names of the member and alternates designated under this section with the Secretary of State.

(5) As soon as possible after the disability evaluation panel is convoked, the Director of Human Services shall designate a person to serve as a member on the disability evaluation panel under subsection (1)(e) of this section. The director shall also designate at that time a first, second and third alternate for the position with the qualifications specified in subsection (1)(e) of this section to serve in the event that the person designated by the director is unable or unwilling to serve on the panel when the panel meets. The director shall file the names of the member and alternates designated under this section with the Secretary of State.

(6) The Governor may change any designation made by the Governor under subsections (2) and (3) of this section at any time before the disability evaluation panel is convoked by filing a new designation with the Secretary of State.

SECTION 3. Convocation of panel. (1) A convocation of the disability evaluation panel shall be convoked if requested by at least two of the following persons:

- (a) The Secretary of State;
- (b) The State Treasurer;
- (c) The President of the Senate;
- (d) The Speaker of the House of Representatives; or
- (e) The chief of staff for the Governor.

(2) A request for convocation of the disability evaluation panel must be in writing and filed with the Secretary of State. The request is effective upon filing. The request must indicate that the persons making the request believe that the Governor is suffering from a physical or mental disability that prevents the Governor from discharging the duties of the office.

SECTION 4. Panel procedures. (1) As soon as possible after a disability evaluation panel is convoked, the panel shall meet and examine whether the Governor is unable to discharge the duties of the office by reason of a physical or mental disability. The members of the panel who are physicians, or other physicians appointed by the panel, shall conduct a medical examination of the Governor if possible.

(2) Meetings of the disability evaluation panel are not subject to ORS 192.610 to 192.690. Except for the panel's determination, records of the panel are not subject to disclosure under ORS 192.410 to 192.505.

SECTION 5. Finding of disability; finding that disability has ceased. (1) A disability evaluation panel shall find that the Governor is unable to discharge the duties of the office if four or more members of the panel vote in the affirmative for that finding.

(2) If a disability evaluation panel finds that the Governor is unable to discharge the duties of the office, the panel shall give written notice to the person next in line of succession to the office of Governor. After receiving the notification the person shall assume the duties of the office as Acting Governor under the provisions of section 8a, Article V of the Oregon Constitution.

(3) If a disability evaluation panel finds that the Governor is unable to discharge the duties of the office, the Governor may request at any time while the Acting Governor is performing the duties of the office that a disability evaluation panel be convoked for the purpose of determining whether the Governor is able again to discharge the duties of the office. As soon as possible after the request is received, the panel shall meet and reexamine whether the Governor is unable to discharge the duties of the office. The examination shall be conducted in the manner provided by section 4 of this 2009 Act, except that the panel shall find that the Governor is able again to discharge the duties of the office if three or more members of the panel vote in the affirmative for that finding.

SECTION 6. ORS 176.040 and 176.050 are repealed.

SECTION 7. The section captions used in this 2009 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2009 Act.

Passed by Senate February 17, 2009

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Secretary of Senate

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President of Senate

Passed by House April 16, 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