

A-Engrossed Senate Bill 75

Ordered by the Senate February 13
Including Senate Amendments dated February 13

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski)

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.

Establishes procedure for Governor to voluntarily transfer duties of office to Acting Governor during period of time during which Governor anticipates being unable to discharge duties.

Modifies provisions relating to involuntary transfer of Governor's powers to Acting Governor during periods of mental or physical disability. Establishes procedures for convoking disability evaluation panel. Specifies membership and qualifications of panel. [*Allows convocation of panel by Secretary of State, State Treasurer, President of the Senate, Speaker of the House of Representatives or Governor's chief of staff.*] **Requires convocation of panel when two or more persons who hold certain statewide offices request that panel be convoked.**

Provides that panel proceedings are not subject to public meetings law, and that panel records, other than panel's determination, are not subject to disclosure under public records law.

Provides that panel shall find Governor unable to discharge duties of office if four or more members of panel vote for that finding. Provides that panel shall find Governor able to resume duties of office if three or more members of panel vote for that finding.

A BILL FOR AN ACT

1
2 Relating to disability of the Governor; creating new provisions; and repealing ORS 176.040 and
3 176.050.

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

5 **SECTION 1. Temporary transfer of power. The Governor may at any time declare that**
6 **the Governor expects to be temporarily disabled for a period of time and will not be able to**
7 **discharge the duties of the office during that period of time. The Governor shall indicate the**
8 **date and time that the period of disability will commence, and an estimate of the length of**
9 **time during which the Governor will be disabled. Upon the date and time specified by the**
10 **Governor, the person charged with assuming the duties of the office under Article V, section**
11 **8a of the Oregon Constitution, shall commence serving as Acting Governor. Upon the Gov-**
12 **ernor declaring that the period of disability has ended, the Acting Governor shall imme-**
13 **diately cease to perform those duties and the Governor shall resume performance of the**
14 **duties of the office of Governor.**

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

17 (a) **The Chief Justice of the Oregon Supreme Court. If the Chief Justice is unable or un-**
18 **willing to serve on the panel when the panel is convoked, the Chief Judge of the Court of**
19 **Appeals shall serve as a member instead of the Chief Justice.**

20 (b) **A judge serving on the Oregon Supreme Court, or the Court of Appeals, designated**

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 by the Governor in the manner provided by subsection (2) of this section.

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

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

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

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

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

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

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

44 (6) The Governor may change any designation made by the Governor under subsections
45 (2) and (3) of this section at any time before the disability evaluation panel is convoked by

1 filing a new designation with the Secretary of State.

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

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

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

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

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

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

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

30 (3) If a disability evaluation panel finds that the Governor is unable to discharge the du-
31 ties of the office, the Governor may request at any time while the Acting Governor is per-
32 forming the duties of the office that a disability evaluation panel be convoked for the purpose
33 of determining whether the Governor is able again to discharge the duties of the office. As
34 soon as possible after the request is received, the panel shall meet and reexamine whether
35 the Governor is unable to discharge the duties of the office. The examination shall be con-
36 ducted in the manner provided by section 4 of this 2009 Act, except that the panel shall find
37 that the Governor is able again to discharge the duties of the office if three or more mem-
38 bers of the panel vote in the affirmative for that finding.

39 **SECTION 6.** ORS 176.040 and 176.050 are repealed.

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

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