

House Bill 2785

Sponsored by Representative THATCHER (Pre-session filed.)

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**.

Requires elected State of Oregon officials at local, state and federal levels, or public employees who must swear or affirm to support United States Constitution or Oregon Constitution as condition of office or employment, to take examination on constitutional principles where results of examination would be made accessible to public.

Establishes constitutional competency examination test question bank to be maintained by State Court Administrator. Requires selection of nonprofit constitutional organization to provide examination questions, training and study materials.

A BILL FOR AN ACT

1
2 Relating to constitutional competency examinations.

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

4 **SECTION 1. (1)(a) Every elected official or public employee who is required to swear or**
5 **affirm to support the United States Constitution or the Oregon Constitution as a condition**
6 **of office or employment shall take a constitutional competency examination within six**
7 **months of taking office every election cycle for the position in which they have been elected**
8 **or within six months of having been employed in the position that requires an oath or affir-**
9 **mation as a condition of employment.**

10 **(b) The examination required under paragraph (a) of this subsection shall be given to:**

11 **(A) Persons elected to federal office;**

12 **(B) Persons elected to statewide office;**

13 **(C) Persons elected to the Legislative Assembly;**

14 **(D) Persons elected to local office; and**

15 **(E) Persons employed in a position that requires an oath or affirmation specified in par-**
16 **agraph (a) of this subsection.**

17 **(2) The constitutional competency examination required under subsection (1) of this**
18 **section shall be developed and managed by the State Court Administrator.**

19 **(3)(a) Questions for the constitutional competency examination shall be developed by a**
20 **nonprofit constitutional organization, selected by the State Court Administrator and a panel**
21 **of six people chosen at random from a jury list specified under ORS 54.070. The State Court**
22 **Administrator will provide a report outlining each of the proposed organizations, its advan-**
23 **tages and disadvantages, and a summary of the preferred organization. Each person will have**
24 **equal weight in voting for the organization, requiring at a minimum four of the seven**
25 **agreeing for an organization to be selected.**

26 **(b) The nonprofit constitutional organization selected under paragraph (a) of this sub-**
27 **section shall submit questions developed for review by the State Court Administrator and a**
28 **panel of six people chosen at random from a jury list specified under ORS 54.070. A person**

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 chosen under this paragraph may not be a person who serves on the panel created under
2 paragraph (a) of this subsection. Each person will have equal weight in voting for the
3 questions, requiring at a minimum four of the seven agreeing for a question to be selected
4 for inclusion in the test question bank to be used for the selection of questions for the ex-
5 amination.

6 (c) The panel specified in paragraph (b) of this subsection may develop potential questions
7 for consideration for inclusion in the test bank and submit the questions to the selected
8 nonprofit constitutional organization to be assessed for future inclusion in the test bank.

9 (d)(A) The State Court Administrator and the panel specified in paragraph (b) of this
10 subsection shall meet every four years to determine if the questions in the test bank meet
11 the needs of the State of Oregon based on economic factors and social factors.

12 (B) If the panel determines that different questions are needed for the examination, the
13 State Court Administrator and the panel will suggest areas of focus, or suggested questions,
14 to the nonprofit constitutional organization. These suggestions shall be submitted within
15 three months of the initial meeting of the panel. No more than three months from the date
16 the suggestions are submitted, the nonprofit constitutional organization shall provide
17 questions suggested for inclusion in the test bank to the panel. These suggested questions
18 shall be selected for use, while existing questions shall be selected for removal from the test
19 bank. Each person shall have equal weight in voting for the questions, requiring at a mini-
20 mum four of the seven agreeing for a question to be selected.

21 (e) The pool of questions to choose from may not be less than 150 percent or more than
22 200 percent of the number of questions required for the examination.

23 (4)(a) The constitutional competency examination required to be developed as provided
24 under subsection (2) of this section shall:

25 (A) Consist of at least 100 questions and no more than 200 questions selected from the
26 test bank developed and managed by the State Court Administrator.

27 (B) Be at least two hours and no more than four hours in continuous length when sitting
28 for the examination.

29 (C) Consist of two primary areas of study:

30 (i) The United States Constitution; and

31 (ii) The Oregon Constitution.

32 (D) Consist of examination questions grouped into four equal areas covering:

33 (i) Working knowledge of the Oregon and United States Constitutions;

34 (ii) Practical application of the Oregon and United States Constitutions;

35 (iii) Level of self-interest based on the degree of using the position for personal gain; and

36 (iv) Level of commitment to the position based on the degree of desire to enforce the

37 Oregon and United States Constitutions.

38 (E) Contain an equal number of questions from the following subject areas:

39 (i) Use of regulation;

40 (ii) Implementation of the justice system;

41 (iii) Framing legislation for economic growth; and

42 (iv) Understanding constitutional requirements. As used in this paragraph, "understand-
43 ing constitutional requirements" means comprehension of constitutional principles including,
44 but not limited to, protected rights, separation of powers and fundamental principles of
45 democratic republic-based government with an understanding of the intent of the founding

1 **fathers.**

2 (F) Have the questions for each of the sections chosen at random to ensure that each
3 test will be different and will prevent individuals from documenting answers to the questions.

4 (G) Provide for relative weighted scoring of the examination of the practical application
5 against four political areas of thought as follows:

- 6 (i) Republican political thought;
- 7 (ii) Democratic political thought;
- 8 (iii) Socialistic political thought; and
- 9 (iv) Theological political thought.

10 (H) Be structured so that each examination question will have multiple choices selected
11 so that each answer will indicate a direction to one of the four listed political areas of
12 thought, and that the scoring of the examination will provide a percent of applicability within
13 each of the political areas of thought specified in this subsection.

14 (I) Contain questions that are weighted by their importance based on the relevance to
15 the subject area and grouping.

16 (b) As used in this subsection:

17 (A) "Level of commitment to the position" means a relative weighted score that demon-
18 strates the general commitment to the elected position from committed to working to pro-
19 vide the level of effort to satisfy and lead their constituents and other citizens to an interest
20 in the position to further their own career with the least amount of effort.

21 (B) "Level of self-interest" means a relative weighted score that demonstrates the gen-
22 eral level of effort that the elected official may be focused on in advancing their own self
23 interest from extremely self interested to focus on delivering results to the official's con-
24 stituents and other citizens.

25 (5)(a) The officer or entity responsible for giving the examination shall score and provide
26 the results to the State Court Administrator so the results can be posted as required by this
27 subsection.

28 (b) The results of the examination required under this section:

29 (A) Are public records subject to disclosure under ORS 192.410 to 192.505.

30 (B) Shall be posted on the website of the State Court Administrator.

31 (C) Must be readable and downloadable in the standard internet format and be easily
32 accessible by other websites.

33 (D) Shall indicate that the test was "REFUSED" if the elected official or public employee
34 required to take the constitutional competency examination has failed to do so.

35 (6)(a) The State Court Administrator shall make available to the elected officials and
36 public employees required to take the constitutional competency examination training and
37 study materials to assist in the preparation for the examination.

38 (b) The training and study materials shall be purchased by the official from their own
39 personal funds or their election funds.

40 (c) The cost of testing, training and study materials shall be consistent with other costs
41 for government and private industry for these types of services and products and may not
42 exceed the general average cost for similar services and materials by more than 125 percent.

43 (d) Administration of the examination by the State Court Administrator shall be within
44 standard testing guidelines, as established by a nationally recognized testing service.

45 (7) The nonprofit constitutional organization selected under subsection (3) of this section

1 **shall:**

2 (a) **Make available training and study materials required by the State Court Administra-**
3 **tor.**

4 (b) **Provide a constitutional competency training course at least once every six months**
5 **within the State of Oregon.**

6 **SECTION 2. Section 1 of this 2011 Act applies to officials elected and public employees**
7 **employed after the effective date of this 2011 Act.**

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