

Senate Bill 364

Sponsored by Senator BOQUIST (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**.

Establishes General Counsel Committee within Legislative Assembly and directs committee to select General Counsel. Sets forth duties and qualifications of General Counsel.

Provides that duties General Counsel must perform become operative July 1, 2022.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to general counsel services performed for the Legislative Assembly; creating new pro-
3 visions; amending ORS 173.130 and 244.050; and prescribing an effective date.

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

5 **SECTION 1. (1) The General Counsel Committee is established as a joint committee of**
6 **the Legislative Assembly.**

7 **(2) The committee shall select a General Counsel to serve as its executive officer. The**
8 **General Counsel shall serve at the pleasure of the committee.**

9 **(3) The General Counsel must be a member of a state bar association in the United States**
10 **and must become a member of the Oregon State Bar within six months of the General**
11 **Counsel's appointment.**

12 **(4) The committee shall fix the annual salary of the General Counsel. Subject to the**
13 **limitations otherwise provided by law for expenses of state officers, the General Counsel**
14 **shall be reimbursed for actual and necessary expenses incurred or paid by the General**
15 **Counsel in the performance of duties of the General Counsel.**

16 **SECTION 2. (1)(a) The General Counsel Committee shall consist of the Speaker of the**
17 **House of Representatives, the President of the Senate, members of the House appointed by**
18 **the Speaker so that there is an equal number of majority party and minority party members**
19 **of the House including the Speaker, and members of the Senate appointed by the President**
20 **so that there is an equal number of majority party and minority party members of the Sen-**
21 **ate including the President. The Speaker of the House of Representatives and the President**
22 **of the Senate may each designate, from among the members of the appropriate house, ma-**
23 **jority party and minority party alternates to exercise powers as members of the committee.**

24 **(b) The appointing authorities shall appoint members of a new committee within 30 days**
25 **after the earlier of:**

26 **(A) The date of the convening of an odd-numbered year regular session of the Legislative**
27 **Assembly; or**

28 **(B) The date of the convening of an organizational session of the odd-numbered year**
29 **regular session of the Legislative Assembly.**

30 **(2)(a) The term of a member of the committee shall expire upon the earlier of:**

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 (A) The date of the convening of the odd-numbered year regular session of the Legislative
2 Assembly next following the member's appointment; or

3 (B) The date of the convening of an organizational session of the odd-numbered year
4 regular session of the Legislative Assembly next following the member's appointment.

5 (b) Vacancies occurring in the membership of the committee shall be filled by the ap-
6 pointing authority so as to ensure an equal number of majority party and minority party
7 members from the appropriate house.

8 (3) The committee has a continuing existence and may meet, act and conduct its business
9 during the sessions of the Legislative Assembly or any recess thereof, and in the interim
10 period between sessions, but the committee has no authority to affect the rules of either
11 house.

12 (4) The committee may appoint advisory committees or subcommittees. Except as oth-
13 erwise provided in this subsection, individuals other than members of the Legislative As-
14 sembly may serve on such advisory committees or subcommittees. A member of an advisory
15 committee or subcommittee who is not a member of the Legislative Assembly shall be com-
16 pensated and reimbursed in the manner provided in ORS 292.495.

17 (5) The committee may not transact business unless a quorum is present. A quorum
18 consists of a majority of committee members from the House of Representatives and a ma-
19 jority of committee members from the Senate.

20 (6) Action by the committee requires the affirmative vote of a majority of committee
21 members from the House of Representatives and a majority of committee members from the
22 Senate.

23 **SECTION 3.** (1) The expiration of the terms of members of the General Counsel Com-
24 mittee, as provided in section 2 of this 2021 Act, does not affect the employment of any in-
25 dividual filling a position previously approved by the committee.

26 (2) Upon the expiration of the terms of members and until the newly appointed General
27 Counsel Committee provides otherwise, the General Counsel may employ and fix the com-
28 pensation of individuals the General Counsel considers necessary for the effective conduct
29 of the work supervised or managed by the General Counsel.

30 (3) Notwithstanding sections 1 and 2 of this 2021 Act, if a vacancy occurs in the position
31 of General Counsel after the expiration of the terms of members and before the appointment
32 of members of a new General Counsel Committee, the President of the Senate and the
33 Speaker of the House of Representatives may jointly select a General Counsel. The General
34 Counsel selected by the President and the Speaker serves at the pleasure of the President
35 and the Speaker at a salary jointly fixed by the President and the Speaker that does not ex-
36 ceed the salary last fixed by the committee. The President and Speaker may act in lieu of
37 the committee under ORS 293.335 in designating the General Counsel they select to approve
38 disbursements and in filing the statement of designation. After appointment of a General
39 Counsel Committee, the General Counsel selected under this subsection serves at the pleas-
40 ure of the committee and the committee may exercise power and authority over the General
41 Counsel as if the General Counsel had been selected by the committee.

42 **SECTION 4.** (1) The General Counsel shall, subject to available resources, provide legal
43 advice in the following subject areas, insofar as the legal advice addresses operations,
44 transactions and activities of the Legislative Assembly and its committees, offices and staff,
45 that are unrelated to proposed legislation or the meaning or lawfulness of existing or pro-

1 **posed law:**

2 (a) **Human resources and personnel matters;**

3 (b) **Procurement and contract review;**

4 (c) **Protest activity, Capitol building security, telephonic or social media harassment and**
 5 **trespass matters;**

6 (d) **Public record request processing and management;**

7 (e) **Ethics and election law compliance issues; and**

8 (f) **Other matters as assigned by the General Counsel Committee.**

9 (2) **The General Counsel may employ and fix the compensation of such professional as-**
 10 **sistants and clerical and other employees as the General Counsel deems necessary for the**
 11 **effective conduct of the work under the charge of the General Counsel.**

12 (3) **The General Counsel may enter into contracts to carry out the functions of the**
 13 **General Counsel.**

14 **SECTION 5.** ORS 173.130 is amended to read:

15 173.130. (1) The Legislative Counsel shall prepare or assist in the preparation of legislative
 16 measures when requested to do so by a member or committee of the Legislative Assembly.

17 (2) Upon the written request of a state agency, the Legislative Counsel may prepare or assist
 18 in the preparation of legislative measures that have been approved for preparation in writing by the
 19 Governor or the Governor's designated representative. The Legislative Counsel may also prepare
 20 or assist in the preparation of legislative measures that are requested in writing by the Judicial
 21 Department, the Governor, the Secretary of State, the State Treasurer, the Attorney General or the
 22 Commissioner of the Bureau of Labor and Industries. In accordance with ORS 283.110, the Legisla-
 23 tive Counsel may charge the agency or officer for the services performed.

24 (3) The Legislative Counsel shall give such consideration to and service concerning any measure
 25 or other legislative matter before the Legislative Assembly, **except a matter before the General**
 26 **Counsel Committee**, as is requested by the House of Representatives, the Senate or any committee
 27 of the Legislative Assembly that has the measure or other matter under consideration.

28 (4) The Legislative Counsel, pursuant to the policies and directions of the Legislative Counsel
 29 Committee and in conformity with any applicable rules of the House of Representatives or Senate,
 30 shall perform or cause to be performed research service requested by any member or committee of
 31 the Legislative Assembly in connection with the performance of legislative functions. Research as-
 32 signments made by joint or concurrent resolution of the Legislative Assembly shall be given priority
 33 over other research requests received by the Legislative Counsel. The research service to be per-
 34 formed includes the administrative services incident to the accomplishment of the research requests
 35 or assignments.

36 (5) The Legislative Counsel shall give an opinion in writing upon any question of law in which
 37 the Legislative Assembly or any member or committee of the Legislative Assembly may have an
 38 interest when the Legislative Assembly or any member or committee of the Legislative Assembly
 39 requests the opinion. Except as provided in subsection (2) of this section and ORS 173.135, the
 40 Legislative Counsel shall not give opinions or provide other legal services to persons or agencies
 41 other than the Legislative Assembly and members and committees of the Legislative Assembly.

42 (6) The Legislative Counsel may enter into contracts to carry out the functions of the Legisla-
 43 tive Counsel.

44 **SECTION 6.** ORS 244.050 is amended to read:

45 244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon

1 Government Ethics Commission a verified statement of economic interest as required under this
 2 chapter:

3 (a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
 4 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

5 (b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem
 6 judicial officer who does not otherwise serve as a judicial officer.

7 (c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

8 (d) The Deputy Attorney General.

9 (e) The Deputy Secretary of State.

10 (f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
 11 Legislative Policy and Research Director, **the General Counsel referenced in sections 1 to 4 of**
 12 **this 2021 Act**, the Secretary of the Senate, the Chief Clerk of the House of Representatives and the
 13 Legislative Equity Officer.

14 (g) The president and vice presidents, or their administrative equivalents, in each public uni-
 15 versity listed in ORS 352.002.

16 (h) The following state officers:

17 (A) Adjutant General.

18 (B) Director of Agriculture.

19 (C) Manager of State Accident Insurance Fund Corporation.

20 (D) Water Resources Director.

21 (E) Director of Department of Environmental Quality.

22 (F) Director of Oregon Department of Administrative Services.

23 (G) State Fish and Wildlife Director.

24 (H) State Forester.

25 (I) State Geologist.

26 (J) Director of Human Services.

27 (K) Director of the Department of Consumer and Business Services.

28 (L) Director of the Department of State Lands.

29 (M) State Librarian.

30 (N) Administrator of Oregon Liquor Control Commission.

31 (O) Superintendent of State Police.

32 (P) Director of the Public Employees Retirement System.

33 (Q) Director of Department of Revenue.

34 (R) Director of Transportation.

35 (S) Public Utility Commissioner.

36 (T) Director of Veterans' Affairs.

37 (U) Executive director of Oregon Government Ethics Commission.

38 (V) Director of the State Department of Energy.

39 (W) Director and each assistant director of the Oregon State Lottery.

40 (X) Director of the Department of Corrections.

41 (Y) Director of the Oregon Department of Aviation.

42 (Z) Executive director of the Oregon Criminal Justice Commission.

43 (AA) Director of the Oregon Business Development Department.

44 (BB) Director of the Office of Emergency Management.

45 (CC) Director of the Employment Department.

- 1 (DD) Chief of staff for the Governor.
- 2 (EE) Director of the Housing and Community Services Department.
- 3 (FF) State Court Administrator.
- 4 (GG) Director of the Department of Land Conservation and Development.
- 5 (HH) Board chairperson of the Land Use Board of Appeals.
- 6 (II) State Marine Director.
- 7 (JJ) Executive director of the Oregon Racing Commission.
- 8 (KK) State Parks and Recreation Director.
- 9 (LL) Public defense services executive director.
- 10 (MM) Chairperson of the Public Employees' Benefit Board.
- 11 (NN) Director of the Department of Public Safety Standards and Training.
- 12 (OO) Executive director of the Higher Education Coordinating Commission.
- 13 (PP) Executive director of the Oregon Watershed Enhancement Board.
- 14 (QQ) Director of the Oregon Youth Authority.
- 15 (RR) Director of the Oregon Health Authority.
- 16 (SS) Deputy Superintendent of Public Instruction.
- 17 (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 18 the Governor's office.
- 19 (j) Every elected city or county official.
- 20 (k) Every member of a city or county planning, zoning or development commission.
- 21 (L) The chief executive officer of a city or county who performs the duties of manager or prin-
- 22 cipal administrator of the city or county.
- 23 (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 24 (n) Every member of a governing body of a metropolitan service district and the auditor and
- 25 executive officer thereof.
- 26 (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 27 (p) The chief administrative officer and the financial officer of each common and union high
- 28 school district, education service district and community college district.
- 29 (q) Every member of the following state boards and commissions:
- 30 (A) Governing board of the State Department of Geology and Mineral Industries.
- 31 (B) Oregon Business Development Commission.
- 32 (C) State Board of Education.
- 33 (D) Environmental Quality Commission.
- 34 (E) Fish and Wildlife Commission of the State of Oregon.
- 35 (F) State Board of Forestry.
- 36 (G) Oregon Government Ethics Commission.
- 37 (H) Oregon Health Policy Board.
- 38 (I) Oregon Investment Council.
- 39 (J) Land Conservation and Development Commission.
- 40 (K) Oregon Liquor Control Commission.
- 41 (L) Oregon Short Term Fund Board.
- 42 (M) State Marine Board.
- 43 (N) Mass transit district boards.
- 44 (O) Energy Facility Siting Council.
- 45 (P) Board of Commissioners of the Port of Portland.

- 1 (Q) Employment Relations Board.
- 2 (R) Public Employees Retirement Board.
- 3 (S) Oregon Racing Commission.
- 4 (T) Oregon Transportation Commission.
- 5 (U) Water Resources Commission.
- 6 (V) Workers' Compensation Board.
- 7 (W) Oregon Facilities Authority.
- 8 (X) Oregon State Lottery Commission.
- 9 (Y) Pacific Northwest Electric Power and Conservation Planning Council.
- 10 (Z) Columbia River Gorge Commission.
- 11 (AA) Oregon Health and Science University Board of Directors.
- 12 (BB) Capitol Planning Commission.
- 13 (CC) Higher Education Coordinating Commission.
- 14 (DD) Oregon Growth Board.
- 15 (EE) Early Learning Council.
- 16 (r) The following officers of the State Treasurer:
- 17 (A) Deputy State Treasurer.
- 18 (B) Chief of staff for the office of the State Treasurer.
- 19 (C) Director of the Investment Division.
- 20 (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
- 21 or 777.915 to 777.953.
- 22 (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
- 23 (u) Every member of a governing board of a public university listed in ORS 352.002.
- 24 (v) Every member of the board of directors of an authority created under ORS 465.600 to
- 25 465.621.
- 26 (2) By April 15 next after the date an appointment takes effect, every appointed public official
- 27 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
- 28 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
- 29 and 244.090.
- 30 (3) By April 15 next after the filing deadline for the primary election, each candidate described
- 31 in subsection (1) of this section shall file with the commission a statement of economic interest as
- 32 required under ORS 244.060, 244.070 and 244.090.
- 33 (4) Not later than the 40th day before the date of the statewide general election, each candidate
- 34 described in subsection (1) of this section who will appear on the statewide general election ballot
- 35 and who was not required to file a statement of economic interest under subsections (1) to (3) of this
- 36 section shall file with the commission a statement of economic interest as required under ORS
- 37 244.060, 244.070 and 244.090.
- 38 (5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or
- 39 appointed public officials as of April 15 and to persons who are candidates on April 15.
- 40 (6) If a statement required to be filed under this section has not been received by the commis-
- 41 sion within five days after the date the statement is due, the commission shall notify the public of-
- 42 ficial or candidate and give the public official or candidate not less than 15 days to comply with the
- 43 requirements of this section. If the public official or candidate fails to comply by the date set by the
- 44 commission, the commission may impose a civil penalty as provided in ORS 244.350.

45 **SECTION 7. Section 4 of this 2021 Act and the amendments to ORS 173.130 and 244.050**

1 by sections 5 and 6 of this 2021 Act become operative on July 1, 2022.

2 SECTION 8. This 2021 Act takes effect on the 91st day after the date on which the 2021
3 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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