

Senate Bill 384

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**.

Alters composition of disability evaluation panel used to determine if Governor is unable to discharge duties of office due to disability. Establishes special joint legislative committee. Directs disability evaluation panel to make recommendation of disability to legislative committee if panel makes unanimous finding of disability. Directs legislative committee to conduct hearing and, if found by two-thirds of committee members from Senate and two-thirds of committee members from House of Representatives, to install acting Governor to discharge duties of office. Establishes process by which elected Governor may be reinstated.

A BILL FOR AN ACT

1
2 Relating to disability of the Governor; creating new provisions; and amending ORS 176.303, 176.306,
3 176.309 and 176.312.

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

5 **SECTION 1.** ORS 176.303 is amended to read:

6 176.303. *[(1)]* A disability evaluation panel consists of the following *[five]* **four** members:

7 **(1) The Secretary of State;**

8 **(2) The State Treasurer;**

9 **(3) The Commissioner of the Bureau of Labor and Industries; and**

10 **(4) The Attorney General.**

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

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

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

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

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

27 *[(2) As soon as possible after taking the oath of office, the Governor shall designate a person to*
28 *serve as a member on the disability evaluation panel under subsection (1)(b) of this section. The Gov-*

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 *ernor shall also designate at that time a first and second alternate for the position with the qualifica-*
 2 *tions specified in subsection (1)(b) of this section to serve in the event that the person designated by the*
 3 *Governor is unable or unwilling to serve on the panel when the panel meets. The Governor shall file*
 4 *the names of the member and alternates designated under this section with the Secretary of State.]*

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

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

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

25 *[(6) The Governor may change any designation made by the Governor under subsections (2) and*
 26 *(3) of this section at any time before the disability evaluation panel is convoked by filing a new desig-*
 27 *nation with the Secretary of State.]*

28 **SECTION 2.** ORS 176.306 is amended to read:

29 176.306. (1) A convocation of the disability evaluation panel shall be convoked if requested by
 30 at least two **members of the panel.** *[of the following persons:]*

31 *[(a) The Secretary of State;]*

32 *[(b) The State Treasurer;]*

33 *[(c) The President of the Senate;]*

34 *[(d) The Speaker of the House of Representatives; or]*

35 *[(e) The chief of staff for the Governor.]*

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

40 **SECTION 3.** ORS 176.309 is amended to read:

41 176.309. (1) As soon as possible after a disability evaluation panel is convoked, the panel shall
 42 meet and examine whether the Governor is unable to discharge the duties of the office by reason
 43 of a physical or mental disability. *[The members of the panel who are physicians, or other physicians*
 44 *appointed by the panel, shall conduct a medical examination of the Governor if possible.]*

45 (2) Meetings of the disability evaluation panel are not subject to ORS 192.610 to 192.690. Except

1 for the panel's determination, records of the panel are not subject to disclosure under ORS 192.311
2 to 192.478.

3 **(3) If, upon meeting, the disability evaluation panel finds by unanimous vote that there**
4 **is substantial evidence that the Governor is unable to discharge the duties of the office, the**
5 **panel shall prepare a written recommendation that the Governor be removed from office and**
6 **shall forward that recommendation:**

7 **(a) To the special joint legislative committee described in section 4 of this 2021 Act; and**

8 **(b) To the Governor.**

9 **(4) The disability evaluation panel may not forward a recommendation under this section**
10 **if the panel is unable to make a unanimous finding.**

11 **SECTION 4. (1) There is established a special joint committee of the Legislative Assembly**
12 **to consider recommendations on the removal of the Governor on disability grounds.**

13 **(2) The committee shall consist of:**

14 **(a) _____ members of the majority party of the Senate and an equal number of mem-**
15 **bers of the minority party of the Senate, appointed by the President of the Senate after**
16 **consultation with majority party and minority party caucus leaders of the Senate; and**

17 **(b) _____ members of the majority party of the House of Representatives and an equal**
18 **number of members of the minority party of the House, appointed by the Speaker of the**
19 **House of Representatives after consultation with majority party and minority party caucus**
20 **leaders of the House.**

21 **(3) The appointing authorities shall appoint members of a new committee within 30 days**
22 **after the earlier of:**

23 **(a) The date of the convening of an odd-numbered year regular session of the Legislative**
24 **Assembly; or**

25 **(b) The date of the convening of an organizational session of the odd-numbered year**
26 **regular session of the Legislative Assembly.**

27 **(4)(a) The term of a member of the committee shall expire upon the earlier of:**

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

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

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

35 **(5) The committee has a continuing existence and may meet, act and conduct its business**
36 **during the sessions of the Legislative Assembly or any recess thereof, and in the interim**
37 **period between sessions, but the committee has no authority to affect the rules of either**
38 **house.**

39 **(6) The committee may not transact business unless a quorum is present. A quorum**
40 **consists of a majority of committee members from the House of Representatives and a ma-**
41 **jority of committee members from the Senate.**

42 **(7) When the committee receives a recommendation from the disability evaluation panel**
43 **under ORS 176.306, the committee shall convene in public hearing as soon as possible, which**
44 **hearing must be no more than 30 days after receiving the recommendation from the panel.**
45 **The committee shall hear from interested persons and must allow the Governor the oppor-**

1 **tunity to testify at the hearing. The committee shall consider the testimony presented and**
2 **all evidence submitted to the committee in conducting deliberations.**

3 **SECTION 5.** ORS 176.312 is amended to read:

4 176.312. (1) [*A disability evaluation panel*] **The special joint legislative committee established**
5 **in section 4 of this 2021 Act** shall find that the Governor is unable to discharge the duties of the
6 office if [*four or more members of the panel*] **two-thirds of the members from the Senate and**
7 **two-thirds of the members from the House of Representatives** vote in the affirmative for that
8 finding.

9 (2) If [*a disability evaluation panel*] **the committee** finds that the Governor is unable to dis-
10 charge the duties of the office, the [*panel*] **committee** shall give written notice to the person next
11 in line of succession to the office of Governor. After receiving the notification the person shall as-
12 sume the duties of the office as Acting Governor under the provisions of [*section 8a,*] Article V,
13 **section 8a**, of the Oregon Constitution.

14 (3) If [*a disability evaluation panel*] **the committee** finds that the Governor is unable to dis-
15 charge the duties of the office, the Governor may request at any time while the Acting Governor
16 is performing the duties of the office that [*a disability evaluation panel be convoked*] **the committee**
17 **be convened again** for the purpose of determining whether the Governor is able again to discharge
18 the duties of the office. As soon as possible after the request is received **and no later than 30 days**
19 **after receipt of the request**, the [*panel*] **committee** shall meet and reexamine whether the Gov-
20 ernor is unable to discharge the duties of the office. [*The examination shall be conducted in the*
21 *manner provided by ORS 176.309, except that the panel shall find that the Governor is able again to*
22 *discharge the duties of the office if three or more members of the panel vote in the affirmative for that*
23 *finding.*] **The committee shall hear from interested persons and must allow the Governor to**
24 **testify if the Governor so wishes. The committee shall find that the Governor is able again**
25 **to discharge the duties of the office and shall reinstate the Governor to the office if two-**
26 **thirds of the members from the Senate and two-thirds of the members from the House of**
27 **Representatives vote in the affirmative for that finding.**

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