

# D R A F T

## SUMMARY

Proposes amendment to Oregon Constitution to change manner of selecting judges of Supreme Court and Court of Appeals. Establishes Commission on Judicial Nominations. Requires that Governor or Chief Justice of Supreme Court fill vacancy in Supreme Court or Court of Appeals by selecting person from list of nominees submitted by commission.

Refers proposed amendment to people for their approval or rejection at next regular general election.

## JOINT RESOLUTION

**Be It Resolved by the Legislative Assembly of the State of Oregon:**

**PARAGRAPH 1.** The Constitution of the State of Oregon is amended by creating a new section 1b to be added to and made a part of Article VII (Amended), and by amending sections 1, 2a and 7, Article VII (Amended), such sections to read:

**Sec. 1. (1)** The judicial power of the state shall be vested in one supreme court and in such other courts as may from time to time be created by law. **The judges of the Supreme Court and the Court of Appeals shall be selected as provided in subsection (2) of this section.** The judges of [*the supreme and*] other courts shall be elected by the legal voters of the state or of their respective districts. **The judges of the Supreme Court and of the other courts shall hold office** for a term of six years, and shall receive such compensation as may be provided by law, which compensation shall not be diminished during the term for which [*they*] **the judges** are **selected or** elected.

**(2)(a) Notwithstanding the provisions of section 16, Article V of this Constitution, when a vacancy occurs in the office of judge of the Su-**

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.

preme Court or the Court of Appeals, the vacancy shall be filled as provided in this subsection.

(b) Within 60 days after the Governor notifies the Commission on Judicial Nominations of a vacancy or expected vacancy in the office of judge of the Supreme Court or the Court of Appeals, the commission shall nominate three candidates to fill the vacancy.

(c) Within 30 days after receiving nominations under paragraph (b) of this subsection, the Governor shall select one of the nominees to fill the vacancy or shall request that the Commission on Judicial Nominations nominate three additional candidates.

(d) If the Governor requests that the Commission on Judicial Nominations nominate three additional candidates under paragraph (c) of this subsection, the commission shall nominate three additional candidates within 30 days after the request. If the Governor fails to select a nominee to fill the vacancy within 30 days after receiving nominations under this paragraph, the Chief Justice of the Supreme Court shall select one of the six nominees to fill the vacancy.

(3) At the end of the term of a judge of the Supreme Court or the Court of Appeals, the judge may apply to the Commission on Judicial Nominations for retention for another term. The commission shall evaluate the judge and determine whether to retain the judge for another term.

(4) In nominating candidates for judicial appointments, the Commission on Judicial Nominations shall strive to:

(a) Create the best possible bench to ensure fair and impartial courts and access to justice for all Oregonians;

(b) Insulate judges from the real or perceived influence of campaign contributions and the undue pressures of politics;

(c) Make the judicial selection process accountable and transparent to the public;

(d) Institutionalize mechanisms for ensuring diversity on the bench;

1       (e) Ensure the most qualified candidates are selected;

2       (f) Safeguard the impartiality of the judiciary; and

3       (g) Build in checks and balances to the judicial selection process.

4       (5) The Commission on Judicial Nominations is established. The  
5 commission shall consist of nine members, as follows:

6       (a) Two members who are active members of the Oregon State Bar  
7 with different legal backgrounds, appointed by the board of governors  
8 of the Oregon State Bar.

9       (b) One member who is not a member of the Oregon State Bar and  
10 who need not be a member of the Legislative Assembly, appointed by  
11 the President of the Senate and the Minority Leader of the Senate by  
12 unanimous agreement.

13       (c) One member who is not a member of the Oregon State Bar and  
14 who need not be a member of the Legislative Assembly, appointed by  
15 the Speaker of the House of Representatives and the Minority Leader  
16 of the House of Representatives by unanimous agreement.

17       (d) One member who is a circuit court judge who presides over a  
18 civil docket, appointed by the Governor.

19       (e) Two members of the public who are not members of the Oregon  
20 State Bar, appointed by the Governor after participating in a public  
21 application process.

22       (f) The Chief Justice of the Supreme Court, or the designee of the  
23 Chief Justice.

24       (g) The president of an institution of higher learning in this state  
25 that contains a law school, or the designee of the president. The in-  
26 stitutions of higher learning in this state that contain law schools  
27 shall establish a rotation by which each institution's president serves  
28 a term as a member of the Commission on Judicial Nominations in  
29 turn.

30       (6) Appointing authorities shall consider geographic, ethnic, gender  
31 and professional diversity in appointing members of the Commission

1 **on Judicial Nominations.**

2 (7) **Members of the Commission on Judicial Nominations shall serve**  
3 **for a term of six years, or until such time as any member ceases to**  
4 **meet the qualifications established under subsection (5) of this section.**

5 (8) **The member of the Commission on Judicial Nominations ap-**  
6 **pointed under paragraph (g) of subsection (5) of this section shall serve**  
7 **as the chairperson of the commission. The chairperson may vote only**  
8 **in the case of a tie vote of the other members.**

9 (9) **The Legislative Assembly may by law adopt additional provisions**  
10 **governing the membership and procedures of the Commission on Ju-**  
11 **dicial Nominations.**

12 **Sec. 2a.** The Legislative Assembly or the people may by law empower the  
13 Supreme Court to:

14 (1) Appoint retired judges of the Supreme Court or judges of courts infe-  
15 rior to the Supreme Court as temporary members of the Supreme Court.

16 (2) Appoint members of the bar as judges pro tempore of courts inferior  
17 to the Supreme Court.

18 (3) Assign judges of courts inferior to the Supreme Court to serve tem-  
19 porarily outside the district for which they were **selected or** elected.

20 A judge or member of the bar so appointed or assigned shall while serving  
21 have all the judicial powers and duties of a regularly **selected or** elected  
22 judge of the court to which he is assigned or appointed.

23 **Sec. 7.** Every judge of the supreme court, before entering upon the duties  
24 of his office, shall take and subscribe, and transmit to the secretary of state,  
25 the following oath:

26 “I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the  
27 constitution of the United States, and the constitution of the State of  
28 Oregon, and that I will faithfully and impartially discharge the duties of a  
29 judge of the supreme court of this state, according to the best of my ability,  
30 and that I will not accept any other office, except judicial offices, during the  
31 term for which I have been [*elected*] **selected.**”

1       **SECTION 1b. (1) The amendment to sections 1, 2a and 7 of this**  
2 **Article by \_\_\_\_\_ Joint Resolution \_\_\_\_\_ (2015) (LC 2157) applies only**  
3 **to vacancies in the office of judge of the Supreme Court or Court of**  
4 **Appeals that occur on or after the effective date of the amendment to**  
5 **sections 1, 2a and 7 of this Article by \_\_\_\_\_ Joint Resolution \_\_\_\_\_**  
6 **(2015) (LC 2157).**

7       **(2) This section is repealed January 1, 2018.**

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9       **PARAGRAPH 2. The amendment proposed by this resolution shall**  
10 **be submitted to the people for their approval or rejection at the next**  
11 **regular general election held throughout this state.**