

Chapter 2

1959 REPLACEMENT PART

Supreme Court

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2.010 Number of judges of Supreme Court. The Supreme Court shall consist of seven judges.

2.020 Qualifications of judges. (1) The judges of the Supreme Court shall be citizens of the United States, and shall have resided in this state at least three years next preceding their election or appointment.

(2) All persons elected judges of the Supreme Court must, at time of their election, have been admitted to practice in the Supreme Court of Oregon.

2.030 [Reserved for expansion]

2.040 Position number of judges. The positions of the members of the Supreme Court shall be designated by the numbers 1 to 7, following the designation made by section 1, chapter 241, Laws of Oregon 1929, and each incumbent shall be designated by the same position number as the judge whom he succeeds in office.

2.045 Chief Justice. (1) A Chief Justice of the Supreme Court shall be selected from their own number by vote of a majority of the members of the Supreme Court. The Chief Justice shall hold office as such for a term of six years from the date of his selection.

(2) The Chief Justice's term of office as such is not interrupted by the expiration of his term of office as judge of the Supreme Court if he is elected judge of the Supreme Court for a succeeding term.

(3) A judge selected as Chief Justice may be selected to succeed himself as such. If the Chief Justice vacates his office as judge of the Supreme Court by reason of death, resignation, failure of reelection or otherwise, or if the Chief Justice vacates his office as such by reason of resignation, expiration of his term as Chief Justice or otherwise, a successor Chief Justice shall be selected for a term of six years. [1959 c.384 §2 (enacted in lieu of ORS 2.050)]

2.050 [Repealed by 1959 c.384 §1 (ORS 2.045 enacted in lieu of ORS 2.050)]

2.052 Appointment of circuit judge or retired judge to serve as judge pro tempore. (1) The Supreme Court may appoint any regularly elected and qualified judge of the circuit court or any retired judge of the Supreme Court to serve as judge pro tempore of the Supreme Court whenever:

(a) Any regularly elected judge of the

Supreme Court, by reason of absence, illness or other good cause, is unable to perform the duties of his office or to perform his part of the work of the court; or

(b) Any regularly elected judge of the Supreme Court is disqualified from sitting in a particular case which he otherwise would hear; or

(c) The business of the Supreme Court is so congested as to cause undue delay in the disposition of cases pending before it.

(2) The appointment shall be made by order of the Supreme Court. The order shall state the maximum period of time during which the judge pro tempore shall serve under such appointment.

(3) Before entering upon his duties as judge pro tempore of the Supreme Court, the appointee shall take and subscribe, and transmit to the Secretary of State, an oath of office in substantially the form prescribed by section 7, Article VII (Amended) of the Oregon Constitution. [1959 c.44 §1]

2.055 Powers and duties of judge pro tempore. Each judge serving as judge pro tempore of the Supreme Court as provided in ORS 2.052 has all the power and duties, during the term of his appointment, of a regularly elected and qualified judge of the Supreme Court. Every decision, order or determination made by the Supreme Court while one or more judges pro tempore are so serving as judges of the court shall be as binding and effective in every respect as if all of the judges participating were regularly elected judges of the court. [1959 c.44 §2]

2.058 Compensation and expenses of judge pro tempore. (1) A circuit court judge serving as a judge pro tempore of the Supreme Court as provided in ORS 2.052 shall receive, in addition to his regular salary and expenses, the following compensation and expenses:

(a) His hotel bills and traveling expenses necessarily incurred by him in the performance of his duties as a judge pro tempore; and

(b) For each day spent in the performance of his duties as a judge pro tempore, an amount determined by dividing the difference between the annual salary of a regularly elected judge of the Supreme Court and the annual salary of a circuit court judge by 250.

(2) A retired judge of the Supreme Court serving as a judge pro tempore of the Su-

preme Court as provided in ORS 2.052 shall receive, in addition to any retirement pay he may be receiving the following compensation and expenses:

(a) His hotel bills and traveling expenses necessarily incurred by him in the performance of his duties as a judge pro tempore; and

(b) For each day spent in the performance of his duties as a judge pro tempore, an amount determined by dividing the difference between the annual salary of a regularly elected judge of the Supreme Court and the annual retirement pay which the retired judge is entitled to receive by 250.

(3) The compensation and expenses payable under subsections (1) and (2) of this section shall be paid upon certificate in the same manner as provided in ORS 3.060. [1959 c.44 §3]

2.060 [Amended by 1955 c.127 §1; repealed by 1959 c.44 §7]

2.070 Clerical assistants for judges. The Supreme Court may appoint and fix the compensation of such number of clerical assistants to the judges of the court as it deems necessary.

2.080 Terms of court. There shall be two terms of the Supreme Court held annually in the capital, commencing on the first Monday in March and the first Monday in October in each year, and at such other times as the court may appoint; and two terms at Pendleton, commencing on the first Monday in May and the last Monday in October of each year and at such other times as the court may appoint.

2.090 Place of holding Pendleton sessions; supplies. The courthouse at Pendleton shall be used by the Supreme Court for its sittings in that place, when the circuit court is not in session, or such other place in Pendleton as the court may direct, or the county court of Umatilla County provide; and the the Secretary of State shall furnish there the necessary stationery and books for the use of the court and for the keeping of its records.

2.100 Quorum. Subject to ORS 2.111, the presence of a majority of all the judges of the Supreme Court is necessary for the transaction of any business therein; but any less number may meet and adjourn from day to day, or for the term, with the same effect as if all were present. [Amended by 1959 c.44 §6]

2.110 [Repealed by 1959 c.44 §4 (ORS 2.111 enacted in lieu of ORS 2.110)]

2.111 Departments of court; sitting in departments or in banc. (1) In hearing and determining causes, the Supreme Court may sit all together or in departments.

(2) A department shall consist of not less than three nor more than five judges. For convenience of administration, each department may be numbered. The Chief Justice shall from time to time designate the number of departments and make assignments of the judges among the departments. The Chief Justice may sit in one or more of the departments and when so sitting shall preside. The Chief Justice shall designate a judge to preside in each department in his absence.

(3) The majority of any department shall consist of regularly elected and qualified judges of the Supreme Court.

(4) The Chief Justice shall apportion the business to the departments. Each department shall have power to hear and determine causes and all questions which may arise therein, subject to subsection (5) of this section. The presence of three judges is necessary to transact business in any department, except such as may be done in chambers by any judge. The concurrence of three judges is necessary to pronounce a judgment.

(5) The Chief Justice or a majority of the regularly elected and qualified judges of the Supreme Court may at any time order a cause to be heard in banc. When sitting in banc, the court may include not more than two judges pro tempore of the Supreme Court. When the court sits in banc, the concurrence of a majority of the judges participating is necessary to pronounce a judgment, but if the judges participating are equally divided in their views as to the judgment to be given, the judgment, decree or order appealed from shall be affirmed. [1959 c.44 §5 (enacted in lieu of ORS 2.110)]

2.120 Rules, generally. The Supreme Court shall have power to make and enforce all rules necessary for the prompt and orderly dispatch of the business of the court, and the remanding of causes to the court below.

2.130 Rules governing original jurisdiction. The Supreme Court is empowered to prescribe and make rules governing the conduct in that court of all causes of original jurisdiction therein.

2.140 [Repealed by 1953 c.345 §3]

2.141 Distribution of copies of opinions and advance sheets; use of subscription proceeds; compensation of clerk and advance sheet indexer. (1) The judges of the Supreme Court shall prepare or cause their opinions to be prepared in quintuplicate or more and delivered to the Clerk of the Supreme Court. The clerk shall immediately mail, without any charge therefor, one copy to the appellant or his senior counsel, one copy thereof to the respondent or his senior counsel, and one copy thereof to the Supreme Court Reporter. The clerk shall file one copy in his own office, and, upon the accumulation of a sufficient number of opinions, shall have the same suitably bound in volumes of convenient size and properly paged and indexed, and safely keep the same in his custody. The other copy shall be delivered to the Department of Finance and Administration to be printed and bound in the manner provided by law.

(2) The Department of Finance and Administration shall cause to be printed a sufficient number of unbound copies of such opinions as required by the Clerk of the Supreme Court containing indexes and other necessary material to be used as advance sheets. The printed advance sheets shall include a subject index, which shall be prepared by a competent person to be appointed by and to be under the supervision of the judges of the Supreme Court. The Clerk of the Supreme Court, upon receipt of the printed advance sheets, shall mail copies thereof, without charge, to the persons whom the judges of the Supreme Court may designate. The clerk further may furnish such advance sheets to subscribers at \$7 a year, payable in advance, keeping a mailing list and record of receipts.

(3) All moneys collected or received by the Clerk of the Supreme Court under the provisions of this section shall be paid into the General Fund of the state treasury, and said moneys hereby are appropriated for the purpose of carrying out the provisions of this section, for the compensation to the persons provided for in subsection (4) of this section and for payments to defray the cost of services in preparing the subject index required by this section, except that all unexpended balances in excess of \$1000 remaining on June 30 of any year, of the moneys so collected and received by the clerk, shall be transferred to and made a part of the General Fund. The cost of print-

ing the advance sheets shall be paid out of the moneys appropriated for defraying the cost of printing and binding of a public nature not chargeable to any department, in the manner that other expenses are paid out of such fund.

(4) As compensation for supervising the printing and distribution of such advance sheets, the clerk shall receive annually \$1.50 for each paid yearly subscription. The compensation of the person who prepares the subject index shall be fixed by the judges of the Supreme Court in an amount not to exceed \$1 annually for each paid yearly subscription to the advance sheets. [1953 c.345 §1]

2.150 Publication of Oregon Reports.

(1) The Supreme Court Reporter shall prepare and superintend and direct the publication of the decisions of the Supreme Court, which shall contain a statement of each case reported, with the names of the counsel on each side of each case, and a concise syllabus of the points decided by the court. The reporter shall insert in each volume the usual table of cases, and a complete index. The reports shall be in every respect equal to the current reports of the court, and shall be in the usual form of like reports of this and other states. Each volume shall contain, when published, not less than seven hundred pages.

(2) The reporter shall deliver to the State Printer the manuscript for printing as rapidly as the same is delivered to him by the judges and sufficient has accumulated for a volume, and he shall read and correct the proof of the work of the printer.

2.160 Distribution of Oregon Reports.

The Secretary of State, upon receipt of the current volumes of the Oregon Reports as they are published and delivered, shall transmit a copy each to the judges, the clerk and the reporter of the Supreme Court, the judges of the circuit courts, the district attorneys, the Governor, the Secretary of State, the State Treasurer, the Public Utilities Commissioner, the State Land Board, the State Tax Commission, the Congressional Library, the United States Supreme Court, the United States district judges in Oregon, the United States Court of Appeals at San Francisco, and two copies to the Attorney General. He also shall deposit three copies in the Supreme Court Library and two copies in the Oregon archives; and may send, if deemed advisable at any time, two copies to the Librarian of

Congress for copyright purposes. Such further distribution of these and the preceding volumes of the Oregon Reports may be made by the Secretary of State as may be directed by the Department of Finance and Administration. All copies of the Oregon Reports hereafter issued, except as herein otherwise provided, shall be sold by the Secretary of State at a price to be determined as follows: The actual cost of printing and binding, plus the cost of wrapping, boxing, mailing and shipping, plus a handling charge of not more than 50 cents per volume; however, with the approval of the Department of Finance and Administration, he also may sell such reports at wholesale or in exchange for other volumes of Oregon Reports, in such quantities, at such prices and on such terms and conditions, including the fixing of prices at which they shall be resold, as said board may determine. The copies of the Oregon Reports furnished under this section to public officers of this state shall be public property and shall be delivered over by them to their successors in office.

2.170 to 2.300 [Reserved for expansion]

2.310 [1953 c.34 §1; repealed by 1959 c.552 §16]

2.320 [1953 c.34 §4; 1955 c.437 §1; repealed by 1959 c.552 §16]

2.330 [1953 c.34 §§2, 3, 7; repealed by 1959 c.552 §16]

2.340 [1953 c.34 §5; repealed by 1959 c.552 §16]

2.350 Administrative assistant and staff to assist in administrative supervision of other courts. (1) The Chief Justice shall appoint an administrative assistant and staff to assist him in exercising administrative authority and supervision under ORS 1.002.

(2) The Supreme Court shall fix the compensation of the administrative assistant and staff. The compensation and expenses of the administrative assistant and staff and the expenses of the office of the administrative assistant shall be ascertained and ordered paid by the Supreme Court from the State Treasury.

(3) During his term of office or employment, neither the administrative assistant nor any member of his staff shall engage in the practice of law. [1959 c.552 §2]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.
Done at Salem, Oregon,
on November 1, 1959.

Sam R. Haley
Legislative Counsel