

# TITLE 1

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### Chapter 1

#### 1987 REPLACEMENT PART

### Courts and Judicial Officers Generally

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## COURTS

**1.001 State policy for courts.** The Legislative Assembly hereby declares that, as a matter of state-wide concern, it is in the best interests of the people of this state that the judicial branch of state government, including the appellate, tax, circuit and district courts, be funded and operated at the state level. The Legislative Assembly finds that state funding and operation of the judicial branch can provide for best state-wide allocation of governmental resources according to the actual needs of the people and of the judicial branch by establishing an accountable, equitably funded and uniformly administered system of justice for all the people of this state. [1981 s s c 3 §1]

**1.002 Supreme Court; Chief Justice as administrative head of judicial department; presiding judges as administrative heads of courts.** (1) The Supreme Court is the highest judicial tribunal of the judicial department of government in this state. The Chief Justice of the Supreme Court is the presiding judge of the court and the administrative head of the judicial department of government in this state. The Chief Justice shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure. The Chief Justice, to facilitate exercise of that administrative authority and supervision, may:

(a) Make rules and issue orders appropriate to that exercise.

(b) Require appropriate reports from the judges, other officers and employes of the courts of this state and municipal courts.

(c) Take other action appropriate to that exercise.

(2) Rules made and orders issued by the Chief Justice under subsection (1) of this section shall permit as much variation and flexibility in the administration of the courts of this state as are appropriate to the most efficient manner of administering each court, considering the particular needs and circumstances of the court, and consistent with the sound and efficient administration of the judicial department of government in this state.

(3) The judges, other officers and employes of the courts of this state shall comply with rules made and orders issued by the Chief Justice. Rules and orders of a court of this state, or a judge thereof, relating to the conduct of the business of

the court shall be consistent with applicable rules made and orders issued by the Chief Justice.

(4) The Chief Judge of the Court of Appeals, the presiding judge of each other court of this state having a presiding judge and the judge of each court of this state having one judge and no presiding judge are the administrative heads of their respective courts. They are responsible and accountable to the Chief Justice of the Supreme Court in the exercise of their administrative authority and supervision over their respective courts. Other judges of the Court of Appeals or a court having a presiding judge are responsible and accountable to the Chief Judge or presiding judge, and to the Chief Justice, in respect to exercise by the Chief Justice, Chief Judge or presiding judge of administrative authority and supervision. [1959 c.552 §1; 1973 c.484 §1; 1981 s.s. c.1 §3]

**1.003 Chief Justice's powers to appoint Chief Judge and presiding judges; terms; disapproval of appointment.** (1) The Chief Justice of the Supreme Court shall appoint after conferring with and seeking the advice of the Supreme Court, and may remove at pleasure:

(a) The Chief Judge of the Court of Appeals.

(b) The presiding judge of the circuit court in a judicial district having two or more circuit court judges.

(c) The presiding judge of a district court having two or more judges.

(2) Except as provided in subsection (3) of this section, the term of office of the Chief Judge or presiding judge is two years, commencing on January 1 of each even-numbered year. A judge is eligible for reappointment as Chief Judge or presiding judge.

(3) If there is a vacancy for any cause in the office of Chief Judge or presiding judge:

(a) When the vacancy occurs after January 1 of an even-numbered year and before July 1 of the following odd-numbered year, the Chief Justice shall make an appointment for a term expiring December 31 of that odd-numbered year.

(b) When the vacancy occurs after June 30 of an odd-numbered year and before January 1 of the following even-numbered year, the Chief Justice shall make an appointment for a term expiring December 31 of the odd-numbered year following that even-numbered year.

(c) The Chief Justice shall designate a judge of the court concerned as acting Chief Judge or acting presiding judge to serve until an appointment is made as provided in this section.

(4) Before appointing a Chief Judge or presiding judge the Chief Justice shall confer with

and seek the advice of the judges of the court concerned in respect to the appointment.

(5) The Chief Justice shall give written notice of the judge appointed as Chief Judge or presiding judge to each judge of the court concerned not later than 10 days before the effective date of the appointment. A majority of the judges of the court concerned may disapprove the appointment by a written resolution signed by each judge disapproving the appointment and submitted to the Chief Justice before the effective date of the appointment. If the appointment is so disapproved, the Chief Justice shall appoint another judge as Chief Judge or presiding judge, and shall notify each judge of the court concerned as provided in this subsection. If the court concerned has five or more judges, a second appointment is subject to disapproval, as provided in this subsection, by a majority of the judges of the court concerned. A third appointment is not subject to disapproval under this subsection. [1981 s.s. c.1 §4]

**1.004 Supreme Court rules governing coordination of class actions.** Notwithstanding any other provision of law or the Oregon Rules of Civil Procedure, the Supreme Court shall provide by rule the practice and procedure for coordination of class actions under ORCP 32 in convenient courts, including provision for giving notice and presenting evidence. [Formerly 13.370]

**1.005 Credit card transactions as security deposits.** The Chief Justice of the Supreme Court shall establish by rule within 30 days after August 4, 1983, a program to permit the circuit and district courts for Washington County to use credit card transactions as security deposits or bail for offenses. If the Chief Justice fails to so establish the program within the time prescribed, the presiding judges of the circuit and district courts for Washington County may establish the program by rule pursuant to ORS 3.065 and 46.665. [1983 c.763 §54]

**1.006 Supreme Court rules.** The Supreme Court may prescribe by rule the form of written process, notices, motions and pleadings used or submitted in civil proceedings and criminal proceedings in the courts of this state. The rules shall be designed to prescribe standardized forms of those writings for use throughout the state. The forms so prescribed shall be consistent with applicable provisions of law and the Oregon Rules of Civil Procedure. The form of writter process, notices, motions and pleadings submitted to or used in the courts of this state shall comply with rules made under this section. [1959 c.552 §3, 1973 c.630 §1; 1981 s.s. c.1 §19]

**1.007 Judicial Department Revolving Account; uses; sources.** (1) There is estab-

lished in the State Treasury an account to be known as the Judicial Department Revolving Account. Upon the written request of the Chief Justice of the Supreme Court, the Executive Department shall draw warrants in favor of the Supreme Court and charged against appropriations to the Supreme Court for court expenses. The warrants shall be deposited in the revolving account. The revolving account shall not exceed the aggregate sum of \$1 million, including unreimbursed disbursements.

(2) Moneys in the revolving account may be used for the payment of court expenses for which appropriations are made to the Supreme Court and for which immediate cash payment is necessary or desirable. Moneys in the revolving account may be disbursed by checks issued by or under the authority of the Chief Justice.

(3) All claims for reimbursement of disbursements from the revolving account shall be approved by the Chief Justice or, as directed by the Chief Justice, the State Court Administrator, and by the Executive Department. When claims have been approved, a warrant covering them shall be drawn in favor of the Supreme Court, charged against appropriations to the Supreme Court for court expenses, and used to reimburse the revolving account.

(4) This section does not authorize the drawing of a warrant against or the disbursement of any appropriation to the Supreme Court for court expenses in excess of the amount, or for a purpose other than, established by or pursuant to law therefor.

(5) As used in this section, "court expenses" includes expenses of the Supreme Court, Court of Appeals, Oregon Tax Court and State Court Administrator and expenses of the circuit and district courts required to be paid by the state. [1983 c.737 §1; 1985 c.502 §14]

**1.008 Personnel plan, fiscal plan and property plan.** The Chief Justice of the Supreme Court shall establish and maintain, consistent with applicable provisions of law:

(1) A personnel plan for officers, other than judges, and employes of the courts of this state who are state officers or employes, governing the appointment, promotion, classification, minimum qualifications, compensation, expenses, leave, transfer, layoff, removal, discipline and other incidents of employment of those officers and employes.

(2) A plan for budgeting, accounting and other fiscal management and control applicable to expenditures made and revenues received by the state in respect to the courts of this state.

(3) A plan for acquisition, use and disposition of supplies, materials, equipment and other property provided by the state for the use of the courts of this state. [1981 s.s c 3 §4]

**1.010 Powers of courts in administration of court business and proceedings.** Every court of justice has power:

(1) To preserve and enforce order in its immediate presence.

(2) To enforce order in the proceedings before it, or before a person or body empowered to conduct a judicial investigation under its authority.

(3) To provide for the orderly conduct of proceedings before it or its officers.

(4) To compel obedience to its judgments, decrees, orders and process, and to the orders of a judge out of court, in an action, suit or proceeding pending therein.

(5) To control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter appertaining thereto.

(6) To compel the attendance of persons to testify in an action, suit or proceeding pending therein, in the cases and manner provided by statute.

(7) To administer oaths in an action, suit or proceeding pending therein, and in all other cases where it may be necessary in the exercise of its powers or the performance of its duties.

**1.020 Contempt punishment.** For the effectual exercise of the powers specified in ORS 1.010, the court may punish for contempt in the cases and the manner provided by statute.

**1.025 Duty of court and court officers to require performance of duties relating to administration of justice; enforcement of duty by mandamus.** (1) Where a duty is imposed by law or the Oregon Rules of Civil Procedure upon a court, or upon a judicial officer, clerk, bailiff, sheriff, constable or other officer, which requires or prohibits the performance of an act or series of acts in matters relating to the administration of justice in a court, it is the duty of the judicial officer or officers of the court, and each of them, to require the officer upon whom the duty is imposed to perform or refrain from performing the act or series of acts.

(2) Matters relating to the administration of justice include, but are not limited to, the selection and empanelling of juries, the conduct of trials, the entry and docketing of judgments and

all other matters touching the conduct of proceedings in courts of this state.

(3) The duty imposed by subsection (1) of this section may be enforced by writ of mandamus. [1957 c 565 §1, 1979 c.284 §40]

**1.030 Seal; form; custody; affixing.** (1) Each of the following courts, and no other, has a seal:

(a) The Supreme Court and the Court of Appeals.

(b) Each circuit court and the Oregon Tax Court.

(c) Each county court.

(d) Each district court.

(2) The seals shall have the arms of the state engraved in the center, with the following inscription surrounding the same:

(a) For the Supreme Court, "Supreme Court, State of Oregon."

(b) For the Court of Appeals, "Court of Appeals, State of Oregon."

(c) For the circuit court, "Circuit Court, ———County, State of Oregon," inserting the name of the particular county.

(d) For the Oregon Tax Court, "Oregon Tax Court, State of Oregon."

(e) For the county court, "County Court, ———County, State of Oregon," inserting the name of the particular county.

(f) For the district court, "District Court, ———County, State of Oregon," inserting the name of the particular county.

(3) The clerk of the court shall keep the seal, and affix it to any process, transcript, certificate or other paper required by statute. [Amended by 1957 c 246 §1, 1961 c.533 §35, 1969 c.198 §16]

**1.040 Sittings of court to be public; when may be private.** The sittings of every court of justice are public, except that upon the agreement of the parties to a civil action, suit or proceeding, filed with the clerk or entered in the appropriate record, the court may direct the trial, or any other proceeding therein, to be private; upon such order being made, all persons shall be excluded, except the officers of the court, the parties, their witnesses and counsel. [Amended by 1985 c.540 §18]

**1.050 Time for decision on submitted questions; certificate of compliance with requirement; penalty for false certificate.** Any question submitted to any judge of any court of, or any justice of the peace in, any of the courts of this state, excepting the Supreme Court and

the Court of Appeals and the judges thereof, must be decided and the decision rendered within three months after submission, unless prevented by sickness or unavoidable casualty, or the time be extended by stipulation in writing signed by the counsel for the respective parties and filed with the judge before the expiration of said three months. This section is mandatory, and no officer shall sign or issue any warrant for the payment of the salary or any instalment of the salary of any such judge or justice of the peace unless the voucher for such warrant shall contain or be accompanied by a certificate of such judge or justice of the peace that all matters submitted to the judge or justice of the peace for decision three months or more prior to the filing of said voucher have been decided as required herein; and, in case the time has been extended by stipulation in writing, or a decision has been prevented by sickness or unavoidable casualty, said certificate shall state the facts excusing the delay. The making and filing of a false certificate shall be just cause for complaint to the legislature and removal of said judge or justice of the peace. [Amended by 1969 c 198 §17]

**1.055 Term of court.** (1) A term of court is a period of time appointed for the convenient transaction of the business of the court. The existence or nonexistence of a term of court has no effect on the duties and powers of the court.

(2) Notwithstanding that an act is authorized or required to be done before, during or after the expiration of a term of court, it may be done within a reasonable period of time. [1959 c 638 §1]

**1.060 Days for transaction of judicial business; exceptions.** (1) Except as provided in subsection (2) of this section, the courts of justice may be held and judicial business transacted on any day.

(2) On any legal holiday in this state no court may be open or transact any judicial business for any purpose except:

(a) To give instructions to a jury then deliberating upon its verdict;

(b) To receive the verdict of a jury, or to discharge a jury in case of its inability to agree upon a verdict; or

(c) For the exercise of the powers of a magistrate in criminal actions or proceedings of a criminal nature. [Amended by 1971 c 240 §1, 1973 c.512 §1, 1981 s s c.3 §21]

**1.070 When court deemed appointed for next judicial day.** If a day appointed for holding a court, or to which it is adjourned, is a legal holiday, the court is deemed appointed for or adjourned to the next judicial day.

**1.080 Place of holding court.** Every court of justice shall sit at the location designated by or pursuant to law for that purpose. [Amended by 1983 c 763 §1]

**1.085 Chief Justice to designate principal location for sitting of courts; alternative sites.** (1) Except to the extent otherwise specifically provided by law, the Chief Justice of the Supreme Court shall designate the principal location for the sitting of the Supreme Court, Court of Appeals, Oregon Tax Court and each circuit and district court. For each circuit court there shall be a principal location in each county in the judicial district. For each district court there shall be a principal location in each county or city in which the court is located.

(2) The Chief Justice may designate locations for the sitting of the Supreme Court, Court of Appeals, Oregon Tax Court and each circuit and district court other than those designated under subsection (1) of this section. Other locations for a circuit court shall be in the judicial district. Other locations for a district court shall be in a county in which the court is located. [1983 c.763 §2]

**1.090 Trial elsewhere than at usual location on agreement of parties.** Upon agreement of the parties to a civil action, suit or proceeding in a circuit, district or county court, filed with the clerk or entered in the register, the court may direct that the trial or any other proceeding therein be had elsewhere within the county than at a location otherwise designated by or pursuant to law for the sitting of the court. [Amended by 1983 c 763 §3; 1985 c 540 §19]

**1.100** [Repealed by 1983 c 763 §9]

**1.110 Adjournment or postponement when judge does not attend.** If no judge attend on the day appointed for holding a court, before 4 p.m., the court shall stand adjourned until the next day at 9 a.m. In case a judge is unable to attend at the time provided by law for a regular term of court, or at the time specified for a special term, the judge may by an order made and signed anywhere in the district of the judge postpone such regular or special term until some future time. [Amended by 1959 c 638 §2]

**1.120 Proceedings unaffected by vacancy in office or failure of term.** No action, suit or proceeding pending in a court of justice is affected by a vacancy in the office of any or all of the judges, or by the failure of a term thereof.

**1.130 Power to adjourn proceedings.** A court or judicial officer has power to adjourn any proceedings before the court or the judicial

officer, from time to time, as may be necessary, unless otherwise expressly provided by statute.

**1.140 Manner of addressing application or proceeding to court or judge.** An application or other proceeding addressed to a court shall be addressed to it by its style as given by statute; an application or other proceeding addressed to a judicial officer shall be addressed to the judicial officer by name, without any other title than the style of office.

**1.150 Proceedings to be in English; use of abbreviations.** Every writing in any action, suit or proceeding in a court of justice of this state, or before a judicial officer, shall be in English; but common abbreviations may be used.

**1.160 Means to carry jurisdiction into effect; adoption of suitable process or mode of proceeding.** When jurisdiction is, by the Constitution or by statute, conferred on a court or judicial officer, all the means to carry it into effect are also given; and in the exercise of the jurisdiction, if the course of proceeding is not specifically pointed out by the procedural statutes, any suitable process or mode of proceeding may be adopted which may appear most conformable to the spirit of the procedural statutes.

**1.165 County to provide offices and pay expenses for courts.** (1) The county in which a circuit or district court is located or holds court shall:

(a) Provide suitable and sufficient court-rooms, offices and jury rooms for the court, the judges, other officers and employes of the court and juries in attendance upon the court, and provide maintenance and utilities for those court-rooms, offices and jury rooms.

(b) Pay expenses of the court in the county other than those expenses required by law to be paid by the state.

(2) Except as provided in subsection (1) of this section, all supplies, materials, equipment and other property necessary for the operation of the circuit and district courts shall be provided by the state under ORS 1.167. [1981 ss c 3 §7]

**1.167 State to provide supplies and personal property for courts.** Except as provided in ORS 1.165 (1) and subject to applicable provisions of a plan established by the Chief Justice of the Supreme Court, the state shall provide the supplies, materials, equipment and other personal property necessary for the operation of the circuit and district courts. The cost of property provided by the state shall be paid by the state from funds available for the purpose. [1981 ss c 3 §18]

**1.169 Administrative consolidation of circuit and district courts.** (1) The circuit and district courts in a judicial district may adopt jointly, and cause to be entered in the records of each of the courts, an order of administrative consolidation of the courts. An order shall not be effective until it is approved by the Chief Justice of the Supreme Court.

(2) While an order adopted under subsection (1) of this section is effective:

(a) The judicial administration of the circuit and district courts in the judicial district shall be combined in accordance with the provisions of this section and the order.

(b) The jurisdiction and functions of the circuit court and each district court in the judicial district shall continue as provided by law, separate and distinct from the jurisdiction and functions of the other courts, but subject to common judicial administration under this section and the order.

(c) The Chief Justice of the Supreme Court shall appoint the presiding judge of the administratively combined circuit and district courts for purposes of exercise of common judicial administration.

(d) The presiding judge of the administratively combined circuit and district courts may assign any judge of the circuit court or a district court to perform any judicial function in either court. A judge of either court is authorized to perform a judicial function so assigned without further order. [1987 c.559 §2]

**1.170** [Repealed by 1981 ss c 3 §141]

## JUDICIAL OFFICERS GENERALLY

**1.210 Judicial officer defined.** A judicial officer is a person authorized to act as a judge in a court of justice.

**1.220 Judicial officer or partner thereof acting as attorney.** Any judicial officer may act as an attorney in any action, suit or proceeding to which the judicial officer is a party or in which the judicial officer is directly interested. A judge of the county court or justice of the peace, otherwise authorized by law, may act as an attorney in any court other than the one of which the judge of the county court or justice of the peace is judge, except in an action, suit or proceeding removed therefrom to another court for review, but no judicial officer shall, as attorney, institute or cause to be instituted any suit, action or proceeding, or act as attorney in any suit, action or proceeding with or without hire, in any court or otherwise, other than as in

this section allowed. No judicial officer shall have a partner who shall practice law or act as attorney in the court over which the judicial officer presides.

**1.230 Powers of a judge out of court.** A judge may exercise, out of court, all the powers expressly conferred upon a judge as distinguished from a court, and not otherwise.

**1.240 Powers of judicial officers.** Every judicial officer has power:

(1) To preserve and enforce order in the immediate presence of the judicial officer, and in the proceedings before the judicial officer, when the judicial officer is performing a duty imposed by statute.

(2) To compel obedience to the lawful orders of the judicial officer, as provided by statute.

(3) To compel the attendance of persons to testify in a proceeding pending before the judicial officer in the cases and manner provided by statute.

(4) To administer oaths in a proceeding pending before the judicial officer, and in all other cases where it may be necessary, in the exercise of the powers and the performance of the duties of the judicial officer.

**1.250 Punishment for contempt.** For the effectual exercise of the powers specified in ORS 1.240, a judicial officer may punish for contempt, in the cases and manner provided by statute.

**1.260 Powers of judges of Supreme Court, Court of Appeals, Oregon Tax Court and circuit courts; where may be exercised.** The judges of the Supreme Court, the Court of Appeals, the Oregon Tax Court and the circuit courts have power in any part of the state:

(1) To take and certify:

(a) The proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged.

(b) The acknowledgment of satisfaction of a judgment in any court.

(c) An affidavit or deposition to be used in any court of justice or other tribunal of this state.

(2) To exercise any other power and perform any other duty conferred or imposed upon them by statute. [Amended by 1963 c 423 §1, 1969 c 198 §18]

**1.270 Powers of other judicial officers; where may be exercised.** Every other judicial officer may, within the county, city, district or precinct in which the judicial officer is chosen:

(1) Exercise the powers mentioned in ORS 1.260 (1).

(2) Exercise any other power and perform any other duty conferred or imposed upon the judicial officer by statute.

**1.280** [1959 c 552 §4, repealed by 1981 s.s. c.1 §25]

**1.290 Leaves of absence.** (1) As used in this section, unless the context requires otherwise, "judge" means any judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court, any circuit court or any district court, but does not include any person appointed by the Supreme Court as judge pro tempore of any of those courts who does not hold the elective office of judge of any of those courts.

(2) Upon receipt of the written application of any judge, the Supreme Court may grant the judge a leave of absence without salary for a period of not more than one year. The Supreme Court may grant a leave of absence only if the court is satisfied that the administration of justice in Oregon will be enhanced by granting the leave. Application for a leave of absence is considered a waiver of salary by the applicant for the period of time the applicant is absent under the leave granted by the court.

(3) A leave of absence shall be granted by order of the Supreme Court. The order shall state the maximum period of time for which the leave is granted. Promptly after the granting of the leave, the State Court Administrator shall cause a certified copy of the order granting the leave to be sent to the Secretary of State and the Public Employees' Retirement Board.

(4) At the termination of leave of absence under this section, unless the judge sooner dies or resigns, a judge shall resume the duties of office and cause written notice of the resumption to be sent to the Supreme Court, the Secretary of State and the Public Employees' Retirement Board. The resumption and sending notice thereof constitutes a termination of the leave whether or not the full maximum period of time granted has expired.

(5) Absence on leave by a judge under this section does not create a vacancy in the office to which the judge was elected or appointed, nor is the judge subject to removal as a consequence thereof.

(6) Any period of time for which a judge is on leave of absence under this section shall be included in computing the length of the service of the judge for the purposes of ORS 1.310 to 1.390, if, within 30 days after the expiration of such period of time, the judge (if a judge whose salary is

subject to deductions under ORS 1.360) shall cause to be deposited in the Judges' Retirement Fund an amount equal to that which would have been deducted from the salary of the judge under ORS 1.360 if the judge had received salary during the period of time the judge was on leave of absence.

(7) Within 30 days after the resumption of the duties of office as provided in subsection (4) of this section, a judge whose salary is subject to deductions under ORS 1.360 shall cause to be deposited in the Judges' Retirement Fund an amount equal to that which would have been deducted from the salary of the judge under ORS 1.360 if the judge had received salary during the period of time the judge was on leave of absence. If the judge fails to deposit that amount within that time, the Executive Department shall deduct that amount from the monthly salary received from the state by the judge until the full amount that the judge failed to deposit has been deducted, and pay that amount into the Judges' Retirement Fund. For the purposes of ORS 1.310 to 1.390, except as otherwise provided in this section, the amount deposited by the judge or deducted from the salary of the judge is considered a deduction under ORS 1.360. An amount equal to the amount deposited by the judge shall be drawn from the General Fund of the State Treasury and paid into the Judges' Retirement Fund, which amount hereby is appropriated out of the money in the General Fund not otherwise appropriated.

(8) Absence on leave under this section by a judge who is a member of the Public Employees' Retirement System under ORS 237.001 to 237.315 does not break the continuity of the membership of the judge in the system. [1965 c 12 §1; 1969 c.198 §19, 1971 c.193 §8]

**1.300 Senior judge; assignment; duties and powers; compensation and expenses; oath.** (1) A judge who retires from the district court, circuit court, Oregon Tax Court, Court of Appeals or Supreme Court, except a judge retired under the provisions of ORS 1.310, may be designated a senior judge of the State of Oregon by the Supreme Court and, if so designated, shall be so certified by the Secretary of State.

(2) Upon filing with the Secretary of State an oath of office as a senior judge as prescribed in subsection (7) of this section, a senior judge is eligible for temporary assignment, with the consent of the senior judge, by the Supreme Court to a state court as provided in this subsection, whenever the Supreme Court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice.

A senior judge who retired from the Supreme Court may be assigned to any state court. A senior judge who retired from a court other than the Supreme Court may be assigned to any state court other than the Supreme Court.

(3) The assignment of a senior judge shall be made by an order which shall designate the court to which the judge is assigned and the duration of the assignment. Promptly after assignment of a senior judge under this section, the Supreme Court shall cause a certified copy of the order to be sent to the senior judge and another certified copy to the court to which the judge is assigned.

(4) Each senior judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified judge of the court to which the senior judge is assigned. The powers, jurisdiction and judicial authority of the senior judge in respect to any case or matter tried or heard by the senior judge while serving under the assignment shall continue beyond the expiration of the assignment so far as may be necessary to:

(a) Decide and dispose of any case or matter on trial or held under advisement.

(b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or objections to any cost bill, that may be filed in the case.

(c) Settle a transcript for appeal and grant extensions of time therefor.

(5) A senior judge assigned as provided in this section shall receive as compensation for each day the senior judge is actually engaged in the performance of duties under the assignment an amount equal to five percent of the gross monthly salary of a regularly elected and qualified judge of the court to which the senior judge is assigned, or one-half of that daily compensation for services of one-half day or less. However, a retired judge shall not receive for services as a senior judge during any calendar year a sum of money which when added to the amount of any judicial retirement pay received by the senior judge for the year exceeds the annual salary of a judge of the court from which the senior judge retired. The compensation shall be paid upon the certificate of the senior judge that the services were performed for the number of days shown in the certificate. Services by a senior judge under an assignment and receipt of compensation for services shall not reduce or otherwise affect the amount of any retirement pay to which the senior judge otherwise would be entitled.

(6) A senior judge assigned to a court located outside the county in Oregon in which the senior

judge regularly resides shall receive, in addition to daily compensation, reimbursement for hotel bills and traveling expenses necessarily incurred in the performance of duties under the assignment. The expenses shall be paid upon presentation of an itemized statement of the expenses, certified by the senior judge to be correct.

(7) To be eligible for assignment, a senior judge must take, subscribe and file with the Secretary of State, the following oath or affirmation:

"I, \_\_\_\_\_, do solemnly swear that as a senior judge of the State of Oregon I will support the Constitution of the United States and the Constitution of the State of Oregon, and that upon hereafter accepting any assignment to serve as a judge of a court of this state I will faithfully discharge the duties thereof to the best of my ability."

[1973 c.452 §2; 1975 c.706 §9; 1979 c.56 §1; 1983 c.628 §1; 1987 c.762 §2]

**1.303 Disability of judge; procedures upon receipt by Chief Justice of complaint or information.** (1) As used in this section and ORS 1.425:

(a) "Judge" means a judge of any court of this state.

(b) "Subject judge" means a judge whose alleged disability is involved in proceedings under this section or ORS 1.425.

(c) "Disability" means a physical or mental condition of a judge, including but not limited to impairment derived in whole or in part from habitual or excessive use of intoxicants, drugs or controlled substances, that significantly interferes with the capacity of the judge to perform judicial duties. A disability may be permanent or temporary.

(2) When the Chief Justice of the Supreme Court receives a complaint as provided in ORS 1.420 (2) or has reliable information that would lead a reasonable person to believe that a judge has a disability, the Chief Justice may:

(a) Confer with the subject judge in respect to the alleged disability.

(b) Consult with other judges of the court in which the subject judge serves and other persons who may have knowledge concerning the alleged disability.

(c) Conduct other inquiry in respect to the alleged disability as the Chief Justice considers appropriate.

(3) If, after inquiry, and on clear and convincing evidence, the Chief Justice determines that

the subject judge has a temporary disability, that informal disposition is appropriate and that the subject judge agrees to informal disposition, the Chief Justice may enter into an informal disposition of the matter with the subject judge. The informal disposition may include agreement by the subject judge to obtain professional counseling, medical treatment or other assistance or to comply with other conditions in respect to the future conduct of the judge. If an informal disposition is entered into, the Chief Justice may grant the subject judge a leave of absence with salary for a period of not more than one year.

(4) If, after inquiry, and on clear and convincing evidence, the Chief Justice determines that the subject judge has a permanent disability, or that the subject judge has a temporary disability and informal disposition is not appropriate or the subject judge does not agree to informal disposition, the Chief Justice may file a written request for an investigation under ORS 1.310 (2) or a complaint under ORS 1.425, as the Chief Justice considers appropriate.

(5) When the Chief Justice enters into an informal disposition with a subject judge under subsection (3) of this section, or files a written request or complaint in respect to a subject judge under subsection (4) of this section, or determines that a subject judge does not have a disability, the Chief Justice shall prepare a written summary of the nature of the complaint or information received, the inquiry conducted and the basis for the determination. The Chief Justice shall immediately send a copy of the summary to the Commission on Judicial Fitness and Disability, which shall retain the copy in a file for the subject judge.

(6) Documents filed with or prepared by the Chief Justice under subsections (2), (3) and (5) of this section shall not be public records unless received as competent evidence in the course of a hearing pursuant to ORS 1.310 (4) or 1.420. [1987 c.520 §1]

**Note:** 1.303 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 1 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation

**1.305 Commencement of judicial term of office.** The term of office of a judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court, or of any circuit or district court shall begin on the first Monday in January following the election of the judge. [1979 c.451 §7]

## RETIREMENT OF JUDGES

**1.310 Involuntary retirement of judges for disability.** (1) As used in this section:

(a) "Judge" includes any judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court, or of any circuit or district court, of the State of Oregon.

(b) "Subject judge" means any judge whose alleged disability is involved in proceedings under this section.

(c) "Disabled" means so incapacitated physically or mentally as to be unable to discharge the duties of judicial office.

(d) "Chief Justice" means the Chief Justice of the Supreme Court of Oregon; except that, if the Chief Justice is the subject judge, then the term "Chief Justice" means the one of the remaining judges of the Supreme Court who has served the longest period of time as a judge of that court.

(e) "Resignation" has its usual meaning, but, with respect to a judge of the Supreme Court, the Court of Appeals, a circuit or a district court, or the Oregon Tax Court, it includes also the filing of a written application for retirement under ORS 1.330.

(2) Any judge who becomes disabled may be retired in the manner provided in this section. The Governor, the Chief Justice, the Judicial Conference or the Board of Governors of the Oregon State Bar may file at any time with the Secretary of State a written request for an investigation to determine whether a judge named in such request is disabled. Upon receipt of such request, the Secretary of State shall transmit to the subject judge a certified copy of such request, with a notice to the effect that, unless such judge files a resignation within 45 days after the date of the notice, an investigation will be made to determine whether the judge is disabled. Such certified copy and notice shall be served on the subject judge, either by delivering them to the judge in person or by transmitting them by registered mail to the judge at the last residence address of the judge as shown in the records of the Secretary of State.

(3) If the subject judge fails to file a resignation within 45 days after the date of the notice, the Secretary of State, within 10 days after the expiration of that period, shall transmit to the Commission on Judicial Fitness and Disability certified copies of the request and notice, with a certificate to the effect:

(a) That the Secretary of State had served the notice and copy of the request on the subject judge as provided in subsection (2) of this section; and

(b) That the judge had not filed a resignation.

(4) Upon receipt of the certified copies and certificate referred to in subsection (3) of this

section, the commission shall make the requested investigation and, after hearing, determine whether the subject judge is disabled. The commission shall prepare an official record which shall include the testimony taken and the exhibits considered. If the subject judge refuses or is unable to attend, the commission may proceed with the hearing in the absence of the judge.

(5) If a majority of the members of the commission shall determine that the subject judge is in fact disabled, they shall make and sign written findings of fact upon which the determination is made and transmit them to the Secretary of State. If no appeal is filed, the office of such judge shall become vacant 10 days after the filing of such findings; and thereupon the Secretary of State shall certify to the Governor the existence of such vacancy. If a majority of the members of the commission do not find that the subject judge is disabled, they shall sign and file with the Secretary of State a written report to that effect, and thereupon the proceeding shall terminate.

(6) The commission may prescribe rules of procedure for the conduct of the investigation and fix the time and place of the hearing, giving the subject judge due notice thereof. The fees and mileage allowance of witnesses, including experts, shall be fixed by the commission.

(7) Any judge retired under the provisions of this section, who is eligible for retirement pay under the provisions of ORS 1.314 to 1.380, shall be entitled to such retirement pay as though the judge had retired voluntarily.

(8) No judge retired under the provisions of this section shall be appointed as judge pro tempore to serve upon any court of the State of Oregon.

(9) The subject judge may appeal to the Supreme Court from a determination by the commission that the judge is disabled, by filing a notice with the Secretary of State within 10 days after the date of filing of the written findings of fact by the commission. The Secretary of State shall thereupon notify the commission and the Chief Justice. The commission shall forthwith transmit the official record to the Supreme Court, which upon receipt of such record shall have full jurisdiction of the proceeding.

(10) The Supreme Court shall review the proceeding de novo on the record with authority to affirm, reverse or annul the determination. Prior to such final determination, remand may also be made to the commission for additional findings of fact. In the event that the Supreme Court reverses or annuls the determination of the

commission, the proceeding shall thereupon terminate and notice to that effect shall be filed with the Secretary of State. If the determination of the commission is affirmed, a decision to that effect shall be filed with the Secretary of State and the office of the subject judge shall forthwith become vacant. Thereupon, the Secretary of State shall certify to the Governor the existence of such vacancy. [Amended by 1963 c 488 §1, 1965 c.394 §1; 1969 c.332 §2; 1983 c.740 §2; 1987 c 520 §11]

**1.312 "Judge" defined for ORS 1.314 to 1.380.** As used in ORS 1.314 to 1.380, "judge" means any judge of the Supreme Court, the Court of Appeals, the Oregon Tax Court, a circuit court and a district court if the judge of the district court elects to contribute to the Judges' Retirement Fund. [1969 c.332 §1]

**Note:** 1.312 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 1 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**1.314 Retirement based on age; eligibility for retirement pay.** (1) Any judge may retire and receive the retirement pay provided in ORS 1.340 if such judge has attained an age and has served in such courts for an aggregate period, as follows:

- (a) 65 years of age and 16 years of service; or
- (b) 70 years of age and either 12 years of service or two full six-year terms;
- (c) And has contributed to the Judges' Retirement Fund in amounts required by then applicable law for such years of service.

(2) Any judge shall be retired at the end of the calendar year in which the judge attains the age of 75 years, and, if the judge has served as judge in such courts for an aggregate period of 12 years or two full six-year terms, may receive the retirement pay provided in ORS 1.340. [1959 c 551 §2 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1961 c.568 §1; 1963 c.592 §1, 1965 c.394 §2; 1969 c 332 §3]

**1.316 Eligibility for retirement pay when judge serving at least 12 years ceases to hold office.** (1) Any person who has served as a judge for an aggregate period of 12 years but less than 16 years, and who has contributed to the Judges' Retirement Fund for a period of 16 years, even though the person ceases to hold such judicial office before attaining 65 years of age may, upon or at any time after attaining 65 years of age, receive retirement pay as provided in ORS 1.340 if the person has complied with this section, upon application in the manner provided in ORS 1.326.

(2) A person described in subsection (1) of this section may elect to continue to contribute to

the Judges' Retirement Fund after the person ceases to hold judicial office, until the person has contributed for a period of 16 years, in the following manner. Not later than 15 days after the date the person ceases to hold judicial office, the person shall notify the Public Employees' Retirement Board in writing that the person intends to continue payments into the Judges' Retirement Fund. The person shall send to the Public Employees' Retirement Board with the notice of election, the contribution of the person to the fund for the balance of the month during which the person ceased to hold judicial office, and for the next following month. Thereafter, the person shall send the contribution of the person to the board before the first day of each succeeding month. The monthly contribution of the person to the fund shall equal seven percent of the monthly salary the person was receiving next before the person ceased to hold office.

(3) The right of a person described in subsection (1) of this section to receive retirement pay shall vest when the person has contributed to the fund for a total of 16 years, including the period during which the person held judicial office.

(4) Contributions payable under this section may be prepaid for any month or months.

(5) The Public Employees' Retirement Board shall grant a period of 30 days' grace for the making of any contribution required under subsection (2) of this section where it appears that the failure to make the contribution was due to mistake, inadvertence or circumstances beyond the control of the person from whom the contribution is due. [1971 c.101 §2]

**1.318 Eligibility for retirement pay when judge otherwise qualified ceases to hold office; reduced retirement pay.** (1) Any person who has served as a judge for an aggregate period of 16 years, who has contributed to the Judges' Retirement Fund for a period of 16 years, even though the person ceases to hold such judicial office before attaining 65 years of age may, upon or at any time after attaining 65 years of age, receive the retirement pay provided in ORS 1.340. Upon or after attaining 65 years of age, the person may apply for retirement pay in the manner provided in ORS 1.326.

(2) Notwithstanding any other provision of ORS 1.314 to 1.380, any former judge who has attained the age of 60 years, and who has served as a judge for an aggregate period of 16 years or who has served as a judge for an aggregate period of 12 years but less than 16 years and has contributed to the Judges' Retirement Fund for a period of 16 years, and who is not receiving or eligible to

receive retirement pay under ORS 1.314 to 1.380 on August 4, 1983, may receive reduced retirement pay which shall be the actuarial equivalent of the retirement pay provided in ORS 1.340. [1959 c.551 §3 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1961 c.568 §2; 1963 c.464 §3, 1965 c.394 §3, 1969 c.332 §4, 1983 c.770 §13]

**1.320** [Amended by 1955 c.496 §1; repealed by 1959 c.551 §1 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320)]

**1.322 Computing length of service.** In computing the length of a judge's service, the periods of time which the judge has served in the Supreme Court, the Court of Appeals, a circuit court, a district court, and the Oregon Tax Court, shall be added together. Periods of time served as a judge pro tempore by a person who is not a regularly elected or appointed judge of the Supreme Court, the Court of Appeals, a circuit court, a district court, or the Oregon Tax Court, shall be excluded in computing service. For the purposes of ORS 1.310 to 1.390, a person who is a regularly elected or appointed judge of the Supreme Court, the Court of Appeals, a circuit court, a district court, or the Oregon Tax Court, and who serves temporarily in some other court shall during the period of such temporary service be deemed to be serving in the court to which the person was regularly elected or appointed. [1959 c.551 §4 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1965 c.394 §4; 1969 c.332 §5]

**1.326 Retirement procedure.** (1) A judge desiring to retire under ORS 1.314 (1) or under ORS 1.318 shall file with the Public Employees' Retirement Board a verified notice stating the intention of the judge to retire and the facts making the judge eligible for retirement pay. If a vacancy is created by the judge's retirement, the retirement board shall so certify to the Governor, who shall thereupon declare the office vacant.

(2) When the retirement board ascertains that a judge has reached the age of retirement, as provided in ORS 1.314 (2), it shall so certify to the Governor and shall also certify whether a vacancy will be created by the judge's retirement. The Governor shall thereupon declare the judge's retirement and, if a vacancy is created, declare the office vacant. If the judge so retired is eligible for retirement pay, the judge may apply therefor as provided in subsection (1) of this section. [1959 c.551 §5 (1.314, 1.318, 1.322 and 1.326 enacted in lieu of 1.320); 1963 c.464 §4]

**1.328** [1959 c.551 §10, 11; repealed by 1961 c.568 §5]

**1.330 Voluntary retirement for incapacity.** Any judge who has served as a judge for not less than six consecutive years or one full six-

year term, and who believes the judge has become permanently incapacitated physically or mentally to perform the duties of the office of the judge, or any former judge who is contributing to the Judges' Retirement Fund under ORS 1.316, or has contributed thereto for 16 years, and who believes the former judge has become permanently incapacitated physically or mentally from performing every duty pertaining to any gainful and suitable occupation for which the former judge is reasonably fitted, may file with the Governor a written application for retirement benefits with a sworn statement of the tenure of the judge or former judge and of the incapacity of the judge or former judge. The Governor thereupon shall appoint three physicians licensed to practice in Oregon, who promptly shall examine the applicant and report their findings in writing to the Governor. If a majority of such physicians file a written report that in their opinion the judge or former judge has become permanently incapacitated as aforesaid, and if the Governor approves the report, the Governor shall file the report, with approval of the Governor indorsed thereon, with the Secretary of State and Public Employees' Retirement Board, and, from the date of such filing, the applicant shall be retired from office, if the applicant had not previously ceased to hold office, and shall be entitled to the benefits of ORS 1.340 to the same extent as if the applicant had retired under the provisions of ORS 1.314 and 1.318 to 1.326. [Amended by 1961 c.568 §3; 1963 c.464 §5; 1965 c.394 §5; 1969 c.332 §6; 1971 c.101 §3]

**1.340 Retirement pay; surviving spouse's pension; administrative expenses.** (1) As used in this section, "final average pay" means the average salary per calendar year paid to a judge:

(a) In five of the last 10 calendar years of service next preceding termination and in which five years the judge was paid the highest salary; or

(b) If the number of last calendar years of service before the judge reaches the age of qualification for retirement is less than 10 and more than five, in five of those years in which the judge was paid the highest salary.

(2) Every judge or former judge who is qualified under ORS 1.310 to 1.314 and 1.318 to 1.330 for retirement pay shall be entitled to receive monthly during the period of the natural life of the judge or former judge out of the Judges' Retirement Fund, an amount equal to one-twelfth of 45 percent of final average pay, to be paid on or before the 10th day of each month following the date of such retirement. The first payment shall be computed on a pro rata basis

from the date of retirement to the end of that month. If a former judge is qualified for retirement pay solely by exercise of the election provided in ORS 1.316 (2), or by disability subsequent to such election, then the retirement pay otherwise payable shall be reduced actuarially to compensate for the fact that the state had paid no matching funds during the period that voluntary contributions were made.

(3) Any retirement pay due a judge or former judge that is unpaid at the time of death shall be paid to the surviving spouse or the next of kin in accordance with the directions in writing by the judge or former judge filed with the Public Employees' Retirement Board.

(4) Except as otherwise provided in subsection (5) of this section, the surviving spouse of any judge or former judge who at the time of death was contributing to the Judges' Retirement Fund or was eligible to receive retirement pay from the fund, and who for a period of not less than six consecutive years or one full six-year term served as judge shall receive a monthly pension in an amount equal to one-twelfth of the amount set forth in the following schedule:

Years judge contributed to fund	Pension of surviving spouse
More than 14	22.5% of the final average pay of the judge, which amount constitutes the basic amount.
More than 12, but not more than 14	80% of basic amount
More than 10, but not more than 12	60% of basic amount
More than 8, but not more than 10	40% of basic amount
Six, or one full six-year term, or more, but not more than 8	20% of basic amount

If a former judge qualified for retirement pay, or at the time of death was contributing to the Judges' Retirement Fund, solely by the exercise of the election provided in ORS 1.316 (2) or by reason of disability subsequent to such election, then the amount otherwise allowable to the surviving spouse as a pension shall be reduced actuarially to compensate for the fact that the state paid no matching funds during the period that voluntary contributions were made.

(5) At any time after commencing contributions to the Judges' Retirement Fund but not later than 30 days before the date on which the first payment on account of retirement is due, a judge may elect to provide an addition to the pension to a surviving spouse provided under subsection (4) of this section, by selecting a reduced retirement benefit for the judge. Such additional pension to the surviving spouse shall be actuarially equivalent to the reduction in the judge's retirement benefit and, in no event, when added to the pension provided under subsection (4) of this section, shall it exceed the reduced retirement benefit elected by the judge.

(6) The pension of the surviving spouse as provided in subsection (4) of this section shall be paid monthly. The first payment shall be made between the 1st and 10th days of the month following the date of death of the judge and a like monthly payment shall be paid on or before the 10th day of each month thereafter so long as the surviving spouse lives and remains unmarried.

(7) The surviving spouse of any judge or former judge who is not entitled to a pension as provided in subsection (4) of this section shall receive an amount equal to the aggregate deductions from the salary of the judge as provided in ORS 1.360, without interest. Such amount shall be paid in a lump sum to the surviving spouse.

(8) The expense of medical examinations, as provided in ORS 1.310 and 1.330; and other administrative expenses shall be paid out of the Judges' Retirement Fund. [Amended by 1953 c.529 §5, 1955 c.496 §2, 1955 c.511 §1, 1959 c.551 §6, 1961 c.568 §4, 1963 c.464 §6, 1965 c.394 §6, 1969 c.332 §7; 1971 c.101 §4, 1983 c.770 §14]

**1.343 Additional retirement pay and surviving spouse pension.** (1) A person entitled to receive retirement pay or a pension under ORS 1.314 to 1.380 on August 1, 1979, shall receive, on and after August 1, 1979, out of the Judges' Retirement Fund, an additional monthly amount as retirement pay or pension determined by applying to the retirement pay or pension paid to the person for the month of July 1979 the percentage increases before July 1, 1979, provided for in ORS 237.060 and 237.199 that would have been applicable if the person had retired and been receiving a retirement allowance under ORS 237.001 to 237.315:

(a) If the person is a retired judge, at the time the person retired under ORS 1.314 to 1.380; or

(b) If the person is the surviving spouse of a judge or former judge, at the time the judge or former judge retired under ORS 1.314 to 1.380 or died, whichever occurred first.

(2) A person entitled to receive retirement pay or a pension under ORS 1.314 to 1.380 on August 1, 1983, shall receive, on and after August 1, 1983, out of the Judges' Retirement Fund, an additional monthly amount as retirement pay or pension determined by applying to the retirement pay or pension paid to the person for the month of July 1983 the percentage increases on and after July 1, 1979, and before July 1, 1983, provided for in ORS 237.060 that would have been applicable if the person had retired and been receiving a retirement allowance under ORS 237.001 to 237.315:

(a) If the person is a retired judge, at the time the person retired under ORS 1.314 to 1.380; or

(b) If the person is the surviving spouse of a judge or former judge, at the time the judge or former judge retired under ORS 1.314 to 1.380 or died, whichever occurred first.

(3) A person entitled to receive retirement pay or a pension under ORS 1.314 to 1.380 shall receive, out of the Judges' Retirement Fund, an additional monthly amount as retirement pay or pension determined as provided in ORS 237.060. This subsection is first applicable for the purpose of determining additional monthly amounts for the month of July 1984, payable August 1, 1984. [1979 c.609 §2; 1983 c 770 §15].

**1.345** [1961 c.702 §5; repealed by 1963 c.464 §10]

**1.346 Benefits for children when judge dies without leaving surviving spouse.** The surviving children of any judge or former judge who dies after January 1, 1977, leaving no surviving spouse and who served as a judge and contributed to the Judges' Retirement Fund for a period of less than six consecutive years shall receive from the fund an amount equal to the aggregate deductions from the salary of the judge as provided in ORS 1.360, without interest. Each surviving child shall receive an equal share of the amount, to be paid in a lump sum. [1977 c 84 §2]

**1.350 Judges' Retirement Fund; sources.** There hereby is created a "Judges' Retirement Fund," which shall consist of:

(1) Moneys appropriated from the General Fund in the State Treasury by law from time to time and by ORS 1.360.

(2) The deductions from salaries of judges as provided in ORS 1.360.

(3) The contributions made as provided in ORS 1.318.

(4) All gifts and donations to the fund, and the rents, issues and profits thereof or proceeds of sales of assets thereof. [Amended by 1959 c.551 §7, 1963 c 464 §7; 1969 c.332 §8]

**1.355 Nature of retirement fund; handling.** (1) The Judges' Retirement Fund hereby is declared to be a trust fund for the uses and purposes set forth in ORS 1.310 to 1.390, and for no other use or purpose, except that this provision shall not be deemed to amend or impair the force or effect of any law of this state specifically authorizing the investment of moneys from the fund. For all purposes the Public Employes' Retirement Board established by ORS 237.251 hereby is declared to be the trustee of the fund.

(2) The State of Oregon has no proprietary interest in the fund or in the contributions made to the fund by the state. The state disclaims any right to reclaim such contributions and waives any right of reclamation it may have in such fund.

(3) The Public Employes' Retirement Board may accept gifts of money or other property from any source, given for the uses and purposes of the fund. Money so received shall be paid into the fund. Money or other property so received shall be used for the purposes for which received. Unless otherwise prescribed by the source from which the money or other property is received, such money shall be considered as income of the fund and such other property shall be retained, managed and disposed of as are investments of the fund.

(4) All moneys paid into the fund shall be deposited with the State Treasurer, who shall be custodian of the fund and pay all warrants drawn on it in compliance with law. No such warrant shall be paid until the claim for which it is drawn is first approved by the director of the Public Employes' Retirement Board and otherwise audited and verified as required by law; provided, that the Public Employes' Retirement Board may direct that the director each month prepare and certify a roll of retirement and pension benefits, showing the names of the various beneficiaries and the amount due to each of them for the month; and the Executive Department shall draw a warrant on the State Treasurer for the aggregate amount thereof, payable to the director of the Public Employes' Retirement Board, who immediately shall pay over the money thereby received to the several beneficiaries thereto entitled as certified in such roll. In the absence of the director, these duties may be performed by an assistant of the director designated by the Public Employes' Retirement Board.

(5) All assets of the Judges' Retirement Fund hereby are transferred to the Public Employes' Retirement Board.

(6) The Public Employes' Retirement Board shall keep a separate account for the assets and

prorated earnings of the Judges' Retirement Fund, and for investment purposes the moneys in the Judges' Retirement Fund shall be commingled with those of the Public Employes' Retirement Fund and shall be invested in the same manner as moneys of the Public Employes' Retirement Fund are invested. [1963 c.464 §2; 1973 c 704 §1; 1975 c.614 §1]

**1.360 Salary deductions; duration; state appropriations for retirement fund.**

(1) Except as provided in subsections (2) to (4) of this section, for the purpose of providing moneys in the Judges' Retirement Fund, seven percent shall be deducted from the monthly salary received from the state by each judge and paid into the fund by the Executive Department. Whenever there is insufficient money in the fund to meet retirement payments based on obligations vested as of September 2, 1963, the additional amount necessary shall be withdrawn from the General Fund and placed in the Judges' Retirement Fund. The deductions and withdrawals shall be made on or before the 10th day of each month. Upon the death of any judge either during the term of office of the judge or after retirement, all the rights of the judge in the fund shall terminate and no right or interest therein shall pass to the estate of the judge. No right or interest in the fund of any surviving spouse entitled to a pension as provided in ORS 1.340 shall survive the death or remarriage of the surviving spouse.

(2) No deduction shall be made from the salary of any judge who, by reason of the age at which the judge became a judge, cannot become eligible for retirement pay under the provisions of ORS 1.314 (2), but neither such a judge nor the surviving spouse of the judge is entitled to any benefit under ORS 1.314 and 1.318 to 1.340.

(3) No deduction shall be made from the salary of any judge who is appointed to a court and who, by reason of the age at which the judge became a judge, cannot become eligible for retirement pay under the provisions of ORS 1.314 (2). However, if the ineligible judge is a district court judge appointed to another court, the ineligible judge shall retain membership in the Public Employes' Retirement System under ORS 237.001 to 237.320.

(4) No deduction shall be made from the salary of any judge after the judge has contributed to the Judges' Retirement Fund for an aggregate period of 16 years. [Amended by 1953 c.529 §5; 1959 c 551 §8; 1961 c 702 §1, 1963 c 464 §8; 1965 c.394 §7; 1969 c.332 §9, 1975 c 125 §3, 1975 c.614 §2]

**1.365 Examination of Judge's Retirement Fund by Public Employes' Retirement**

**Board; transfer of moneys.** The Public Employes' Retirement Board shall cause the Judges' Retirement Fund to be examined from time to time for the purpose of determining whether any portion of the moneys credited to the fund is not necessary for the uses and purposes set forth in ORS 1.310 to 1.390. If the board determines that any portion of the moneys credited to the Judges' Retirement Fund is not necessary for those uses and purposes, the board may cause to be transferred all or any part of that portion to the Public Employes' Retirement Fund for the funding of actuarial costs of benefits under ORS 237.211 to 237.233. [1987 c.625 §6]

**1.370** [Repealed by 1963 c.464 §10]

**1.380 Application to certain judges and spouses.**

(1) ORS 1.310 to 1.314 and 1.318 to 1.360 do not apply to any judge with respect to any unexpired term to which the judge was elected or appointed prior to June 9, 1943, unless such judge, within 60 days after June 9, 1943, filed with the Secretary of State a written notice and declaration that the judge desired to take advantage of chapter 294, Oregon Laws 1943, and consented that three percent of the salary of the judge might thereafter be deducted and paid into the Judges' Retirement Fund, but ORS 1.310 to 1.314 and 1.318 to 1.360 do apply to all judges of said courts for all terms to which such judges were or are elected or appointed after June 9, 1943.

(2) Any person deemed to have retired under the provisions of the second paragraph of section 2, chapter 294, Oregon Laws 1943, as amended by section 1, chapter 315, Oregon Laws 1949, shall receive retirement pay in the amount and under the terms prescribed in that paragraph, which is continued in force for this purpose.

(3) The schedules in ORS 1.340 (1) and (4) do not apply to:

(a) Retirement pay of judges retired prior to July 1, 1961; and

(b) Pensions payable to surviving spouses of judges deceased prior to July 1, 1961.

In these cases, retirement pay and pensions to surviving spouses hereby are ratified and approved and shall be paid in the same amounts and manner as paid on and prior to June 30, 1961.

(4) The schedules in ORS 1.340 (1) and (4) do not apply to pensions that may become payable to a surviving spouse of any judge retired prior to July 1, 1961, who dies after that date. In such case the pension to the surviving spouse shall be paid in accordance with the law in effect on June 30, 1961.

(5) Except as may otherwise be provided in subsections (2), (3) and (4) of this section, the schedules in ORS 1.340 (1) and (4) do apply, effective as of July 1, 1961, with respect to any retirement pay to a judge who retires on or after that date, to the pension payable to a surviving spouse of a judge who dies on or after that date and prior to the retirement of the judge, and to a pension paid to a surviving spouse of a judge retired on or after July 1, 1961.

(6) In the calculation of any pension payable to a surviving spouse commenced between July 1, 1961, and September 2, 1963, that calculation will govern, whichever produces the larger monthly pension to the surviving spouse, under the provisions of law in effect on June 30, 1961, or under the schedule in ORS 1.340 (4).

(7) Nothing in chapter 332, Oregon Laws 1969, is intended to affect retirement pay of judges retired before June 3, 1969, or rights of the spouses of such judges to pensions accrued, or which may accrue after June 3, 1969, under existing or prior legislation.

(8) No judge who is contributing to the Judges' Retirement Fund on June 3, 1969, shall receive a lesser amount of retirement pay under chapter 332, Oregon Laws 1969, than the judge would have been entitled to receive upon retirement under ORS 1.314 to 1.380 prior to June 3, 1969. [Amended by 1963 c.464 §9; subsection (7) enacted as 1969 c.332 §11; subsection (8) enacted as 1969 c.332 §17]

**1.385 Application to district judges.** Any district judge appointed or elected for the first time after June 3, 1969, shall become subject to ORS 1.314 to 1.380 on the date the appointment or election of the judge takes effect. [1969 c.332 §15]

**1.387 Application to certain circuit court judges.** (1) As used in this section, "eligible person" means:

(a) A person who, as a circuit court judge, made the election authorized by section 1, chapter 404, Oregon Laws 1973, and had the contributions transferred or made payments, or both, as provided in section 2, chapter 404, Oregon Laws 1973, and thereby qualified for the benefits under the Judges' Retirement Fund for any portion of the period the person served as a district court judge prior to the effective date of chapter 404, Oregon Laws 1973, and the portion of the period elected included service as a district court judge prior to July 1, 1961; or

(b) A person who became a circuit court judge after July 1, 1961, and prior to September 2, 1963, and who otherwise is entitled to receive retirement pay under ORS 1.314 to 1.380.

(2) Notwithstanding any provision of ORS 1.314 to 1.380, an eligible person shall be entitled to receive, upon retirement as a judge, retirement pay in an amount at least equal to an amount computed in accordance with the law relating to retirement pay of judges in effect immediately prior to July 1, 1961; that is, a monthly amount equal to one-half of the monthly salary the person was receiving as a judge at the time of retirement, as provided in ORS 1.340, as amended by section 6, chapter 551, Oregon Laws 1959.

(3) This section is applicable to:

(a) Judges who retire on or after July 24, 1979; and

(b) Payments of retirement pay made on or after July 24, 1979, to former circuit court judges who retired before July 24, 1979. [1979 c.727 §1; 1981 c.684 §1]

**Note:** 1.387 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 1 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**1.390 Actuarial report.** At least once every five years the Public Employees' Retirement Board shall cause a competent actuary familiar with public systems of retirement and death benefits to prepare a report evaluating the current and prospective assets and liabilities of the Judges' Retirement Fund and indicating its current and prospective financial condition. In preparing the report, the actuary shall investigate the mortality, disability, service and other experience of the members of the system, and shall make such recommendations as the actuary deems advisable to facilitate administering it properly. The board shall publish and distribute a summary of the report to members of the legislature, incumbent and retired judges and their spouses, and surviving spouses receiving pensions. [1969 c.332 §10]

## COMMISSION ON JUDICIAL FITNESS AND DISABILITY

**1.410 Commission on Judicial Fitness and Disability; term; Senate confirmation.**

(1) There is created the Commission on Judicial Fitness and Disability consisting of:

(a) Three judges appointed by the Supreme Court;

(b) Three persons appointed by the Board of Governors of the Oregon State Bar from among persons admitted to practice law in this state; and

(c) Three persons appointed by the Governor who are not qualified under either paragraph (a) or (b) of this subsection.

(2) The term of a member is four years, but whenever a member ceases to meet the qualifications under which the member was appointed, membership shall end. Before the expiration of the term of a member, a successor shall be appointed to perform the functions of a member on the day next following expiration of the term of the member. In case of a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for a four-year term.

(3) Appointments by the Governor are subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. [1967 c.294 §2; 1969 c.695 §16, 1971 c.511 §1; 1985 c.565 §2]

**1.415 Powers and duties of commission.** (1) The Commission on Judicial Fitness and Disability may:

(a) Subject to the State Personnel Relations Law, appoint such subordinates and employes as the commission considers necessary to carry out the duties and powers vested in the commission.

(b) Request the assistance of and compensate physicians, expert witnesses and special counsel.

(c) By its chairman or vice chairman, take and preserve testimony and administer oaths to witnesses on any matter within its jurisdiction.

(2) Upon majority vote of the members of the commission or upon request of a judge whose conduct is subject to a hearing under ORS 1.420 or a judge whose alleged disability is subject to a hearing under ORS 1.425, the chairman or vice chairman of the commission shall issue any processes necessary to compel the attendance of witnesses and the production of any books, papers, records or documents as may be required.

(3) The commission shall adopt rules of procedure governing proceedings under ORS 1.420 and 1.425. [1967 c.294 §10, 1987 c.520 §4]

**1.420 Investigation; hearings; masters; recommendation; temporary suspension.**

(1) Upon complaint from any person concerning the conduct of a judge or upon request of the Supreme Court, and after such investigation as the Commission on Judicial Fitness and Disability considers necessary, the commission may:

(a) Hold a hearing pursuant to subsection (3) of this section to inquire into the conduct of the judge; or

(b) Request the Supreme Court to appoint three qualified persons to act as masters, to hold a hearing pursuant to subsection (3) of this section and maintain a record on the matter referred to them and to report to the commission on the conduct of the judge.

(2) If the commission receives a complaint that appears to indicate that a judge has a disability as defined in ORS 1.303, the commission may refer the complaint to the Chief Justice of the Supreme Court for appropriate proceedings under ORS 1.303.

(3) When a hearing is held by the commission or by masters as authorized in subsection (1) of this section, the hearing shall be public and all the testimony and evidence given and received in the hearing shall be public records. The judge shall have the right to be present at such hearing, to be represented by counsel, to present testimony and evidence and to cross-examine witnesses.

(4) If, after hearing or after considering the record and report of the masters, the commission finds that the conduct of the judge justifies censure, suspension or removal from office, the commission shall recommend to the Supreme Court the censure or suspension or removal of the judge.

(5) The Supreme Court by order may temporarily suspend a judge whose conduct is the subject of proceedings under this section from exercising any judicial functions during the pendency of those proceedings. [1967 c.294 §7; 1971 c.511 §3, 1987 c.520 §5]

**1.425 Commission proceedings upon receipt of complaint of disability; hearing; physical examination; disposition.** (1) Upon complaint from the Chief Justice of the Supreme Court as provided in ORS 1.303, and after such investigation as the Commission on Judicial Fitness and Disability considers necessary, the commission may:

(a) Proceed as provided in ORS 1.420; or

(b) If the investigation under this subsection indicates that the subject judge may have a temporary disability, hold a hearing pursuant to subsection (2) of this section to inquire into the alleged disability, or request the Supreme Court to appoint three qualified persons to act as masters, to hold a hearing pursuant to subsection (2) of this section and maintain a record on the matter referred to them and to report to the commission on the alleged disability.

(2) When a hearing is held by the commission or by masters as authorized in paragraph (b) of subsection (1) of this section, the hearing shall not be open to the public unless the subject judge requests a public hearing. The testimony and evidence given and received in the hearing shall not be public records. The subject judge shall have the right to be present at such hearing, to be represented by counsel, to present testimony and evidence and to cross-examine witnesses.

(3)(a) The commission may direct that a subject judge, prior to a hearing, submit to a physical examination by one, two or three physicians licensed to practice in this state and appointed by the commission to conduct the examination, or submit to a mental evaluation by one, two or three physicians, psychologists or other mental health professionals licensed to practice in this state and appointed by the commission to conduct the evaluation, or submit to both that examination and evaluation. The persons appointed to conduct the examination or evaluation shall report thereon to the commission. A copy of any report to the commission shall be provided by the commission to the subject judge. The costs of the examination, evaluation and reporting shall be paid by the commission.

(b) If a subject judge directed to submit to an examination or evaluation fails to do so, the judge may not present as evidence in the proceeding the results of any medical examination of the judge done at the instance of the judge, and the commission or masters may consider the failure of the judge to submit to examination or evaluation as evidence that the judge has a disability.

(4) If, after hearing or after considering the record and report of the masters, the commission finds that the subject judge has a temporary disability, the commission may:

(a) Enter into a disposition of the matter with the subject judge, which may include agreement by the judge to obtain professional counseling, medical treatment or other assistance or to comply with other conditions in respect to the future conduct of the judge and provide for supervision of compliance by the judge and for investigation, hearing as provided in subsection (2) of this section and, if appropriate, action by the commission as provided in paragraph (b) of this subsection if the judge fails to comply; or

(b) If the commission also finds that the conduct of the subject judge justifies suspension, recommend to the Supreme Court that the judge be suspended without loss of salary for a period not exceeding one year.

(5) The Supreme Court, on its own motion or on recommendation by the commission, by order may temporarily suspend a judge whose alleged disability is involved in proceedings under this section from exercising any judicial functions during the pendency of those proceedings.

(6) If the commission recommends suspension under paragraph (b) of subsection (4) of this section, the Supreme Court shall review the record of the proceedings under this section on the law and facts and may receive additional

evidence and permit argument. The Supreme Court may order the judge suspended without loss of salary for a period not exceeding one year. Upon an order of suspension, the judge shall be suspended from office for the period specified in the order. Suspension does not create a vacancy in the office of judge during the period of suspension. In addition to or in lieu of an order of suspension, the Supreme Court may require that the judge obtain professional counseling, medical treatment or other assistance or comply with other conditions in respect to the future conduct of the judge. [1987 c 520 §3].

**1.430 Supreme Court review; order of suspension or removal; effect.** (1) The Supreme Court shall review the record of the proceedings under ORS 1.420 on the law and facts and may receive additional evidence. The Supreme Court may censure the judge or it may order the judge suspended or removed from office.

(2) Upon an order for removal, the judge shall be removed from office and the salary of the judge shall cease and the office of the judge is vacant on the date of such order.

(3) Upon an order of suspension, the judge shall be suspended from office for the period specified in the order and the salary of the judge shall cease, if so ordered, from the date of the order until the end of the specified period. Suspension does not create a vacancy in the office of judge during the period of suspension. [1967 c 294 §7; 1971 c 511 §3]

**1.440 Status of records of proceedings under ORS 1.420 or 1.425.** (1) Documents filed with the Commission on Judicial Fitness and Disability and the investigation conducted by the commission prior to a hearing pursuant to ORS 1.420 or 1.425 shall not be public records unless received as competent evidence in the course of a hearing pursuant to ORS 1.420. The decision of the commission after hearing or upon review of the record and report of masters under ORS 1.420 shall be a public record, together with the recommendations, if any, of the commission to the Supreme Court. The decision of the commission after hearing or upon review of the record and report of masters under ORS 1.425 shall not be a public record, except for a decision and recommendation to the Supreme Court under ORS 1.425 (4)(b).

(2) Documents filed and testimony given in proceedings under ORS 1.420 or 1.425 are privileged communications which may not be received in evidence in any judicial proceedings other than those directly connected with the administration of ORS 1.410 to 1.480 unless

expressly or impliedly waived by the person tendering the document to or testifying in such proceedings or except in a criminal prosecution for perjury or false swearing before the commission.

(3) Members of the commission, masters appointed pursuant to ORS 1.420 or 1.425 and staff of the commission shall not disclose or use any investigation, testimony or documents which are not public records as defined in ORS 1.410 to 1.480 for any purpose other than in connection with their official duties in the administration of ORS 1.410 to 1.480. The commission may, upon the request of a judge who has been the subject of a complaint and proceedings thereon that are not public records, state the disposition of the complaint and proceedings and the reasons for its decision when the commission finds that the complaint or proceedings have been publicized and fairness requires such comment. [1967 c 294 §8, 1981 c 354 §2, 1987 c 520 §6]

**1.450 Status of testimony in proceedings under ORS 1.420 or 1.425.** Any testimony given by a witness compelled to appear before the Commission on Judicial Fitness and Disability or the masters appointed pursuant to ORS 1.420 or 1.425 shall not be used against the witness in any criminal action or proceeding, nor shall any criminal action or proceeding be brought against such witness on account of any testimony so given by the witness, except for perjury or false swearing committed before the commission or the masters. [1967 c 294 §14; 1987 c.520 §7]

**1.460 Judge not to participate in proceedings involving self except in defense.** A judge who is a member of the Commission on Judicial Fitness and Disability or of the Supreme Court or who acts as a master under ORS 1.420 or 1.425 shall not participate in any proceedings involving the conduct or alleged disability of the judge except in the defense of the judge. [1967 c 294 §9; 1987 c 520 §8]

**1.470 Service of process; proof; return; witness fees.** (1) Process issued by the commission or by the chairman and vice chairman of the commission shall be served by a person authorized to serve summons and in the manner prescribed for the service of a summons upon a defendant in a civil action in a circuit court. The process shall be returned to the authority issuing it within 10 days after its delivery to the person for service, with proof of service as for summons or that the person cannot be found. When served outside the county in which the process originated, the process may be returned by mail. The person to whom the process is delivered shall indorse thereon the date of delivery.

(2) Each witness compelled to attend any proceedings under ORS 1.420 or 1.425, other than an officer or employe of the state, a public corporation, or a political subdivision, shall receive for attendance the same fees and mileage allowance allowed by law to a witness in a civil case, payable from funds appropriated to the commission. [1967 c.294 §§11, 12, 1973 c.827 §1, 1977 c 877 §1, 1979 c.284 §41; 1987 c 520 §9]

**1.475 Procedure when process not obeyed.** (1) Whenever a person summoned by the Commission on Judicial Fitness and Disability fails to appear to testify or fails to produce any books, papers, records or documents as required, or whenever any person so summoned refuses to answer any question pertinent to the subject under inquiry before the commission, or the masters appointed pursuant to ORS 1.420 or 1.425, the commission may apply to the circuit court for the county in which the failure occurred for an order to the person to attend and testify, or otherwise to comply with the demand or request of the commission or the masters.

(2) The application to the court shall be by ex parte motion upon which the court shall make an order requiring the person against whom it is directed to comply with the demand or request of the commission within three days after service of the order, or within such further time as the court may grant, or to justify the failure within that time.

(3) The order shall be served upon the person to whom it is directed in the manner required by this state for the service of process, which service is required to confer jurisdiction upon the court. Failure to obey an order issued by the court under this section is contempt of court. [1967 c.294 §13; 1987 c.520 §10]

**1.480 Chairman; vice chairman; quorum; compensation and expenses.** (1) The Commission on Judicial Fitness and Disability shall select one of its members as chairman, and another as vice chairman, for such terms and to perform such functions as the commission shall determine.

(2) A majority of the commission constitutes a quorum for the transaction of business. Every recommendation on matters relating to the removal of a judge to the Supreme Court must be concurred in by a majority of the members of the commission.

(3) A member of the Commission on Judicial Fitness and Disability is entitled to compensation and expenses as provided in ORS 292.495. [1967 c 294 §§4, 5; 1969 c 314 §2]

**COURT RULES AND BAIL**

**1.510** [Formerly 484.420, 1969 c.314 §3; 1971 c.404 §3; 1973 c.43 §1, 1973 c.374 §1; 1975 c.304 §2; 1979 c.477 §1; 1983 c.740 §3; repealed by 1985 c.725 §17]

**1.520 Supreme Court rules and bail schedules for certain offenses.** (1) The Supreme Court may adopt rules for the conduct of cases involving any of the following:

(a) Traffic offenses. Rules adopted under this paragraph may include any rules the Supreme Court determines necessary to carry out the purposes of an agreement established under ORS 802.530.

(b) Boating offenses.

(c) Violations of game and commercial fishing laws.

(d) Violations of ORS 164.775, 618.121 and 618.151.

(e) Infractions subject to ORS 8.665, 153.110 to 153.310 and 153.990.

(2) Rules adopted under this section, when promulgated, supersede any local rule of a state court inconsistent therewith. All city ordinances and city court rules shall conform to the rules so adopted.

(3) Subject to ORS 153.623, the Supreme Court may establish a schedule of recommended amounts of minimum bail or security for offenses and infractions described under this section. The schedule shall be a guide in all such offenses and violations in this state. When rules concerning bail or security are established under this section for purposes of ORS 802.530, such rules shall control in all courts of this state and shall supersede any conflicting provision of law. [Formerly 484.410; 1971 c.404 §4; 1973 c.374 §2; 1977 c.132 §7; 1981 c.692 §4; 1981 s.s. c.3 §4; 1985 c.396 §5; 1985 c.725 §8a]

**1.525 Uniform citations for certain offenses.** (1) The Supreme Court shall adopt:

(a) A uniform traffic citation for the purposes of ORS 153.515;

(b) A uniform boating citation for the purposes of ORS 153.335;

(c) A uniform wildlife and commercial fishing citation for the purposes of ORS 153.710;

(d) A uniform weights and measures licensing citation for the purposes of ORS 618.421;

(e) A uniform petition for a driving while under the influence of intoxicants diversion agreement for the purposes of ORS 813.210; and

(f) Uniform infraction citations for infractions subject to ORS 8.665, 153.110 to 153.310

and 153.990 as the Supreme Court determines appropriate.

(2) If changes are made to a uniform citation under this section, the Supreme Court shall make a reasonable effort to minimize the financial impact of the changes on the state agencies and political subdivisions of this state that use the uniform citation. Where possible, the effort to minimize the financial impact shall include a reasonable time for the state agencies and political subdivisions to exhaust their existing supplies of the citation form before the changes become effective. [1979 c.477 §3; 1981 c.692 §5; 1981 c.803 §1; 1983 c.338 §879; 1985 c.725 §9]

**1.530** [Formerly 484.430; repealed by 1973 c.43 §2]

**REPRESENTATION OF JUDGES BY PRIVATE COUNSEL**

**1.550 Private counsel for judges.** Whenever, pursuant to ORS chapter 180, the Attorney General is requested to represent a judge of the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court or district court and declines to do so, the judge may, subject to the provisions of ORS 30.260 to 30.400, employ private counsel as provided under ORS 1.560. [1977 c.79 §2]

**1.560 Procedure for employment of private counsel; terms and conditions.** In any case in which the judge desires the appointment of private counsel, the judge shall so notify the State Court Administrator. The State Court Administrator, under the direction of the Supreme Court, may authorize the judge to employ private counsel under the following circumstances:

(1) Where the judge is a defendant in an action, suit or proceeding and there is no other party directly interested in the outcome of the action, suit or proceeding who should fairly bear the cost of representation; or

(2) Where the judge is a defendant in an action, suit or proceeding and the State Court Administrator concludes that no party interested in the outcome of the action, suit or proceeding will provide adequate representation for the judge; or

(3) In any action, suit or proceeding, where the State Court Administrator finds that employing private counsel is necessary to protect the public interest, the integrity of the judicial system, or the interests of the judge in performing duties as a state officer. [1977 c.79 §3]

**1.570 Claims for compensation of private counsel; approval by State Court Administrator.** If private counsel is employed

under ORS 1.600, such counsel shall submit to the State Court Administrator a verified and detailed claim for compensation, which claim shall include a statement of reimbursable expense incurred and the amount of time devoted to the matter on behalf of the judge. The State Court Administrator, under the direction of the Supreme Court, shall examine the claim and shall approve payment thereof in a reasonable amount.

[1977 c.79 §4]

### JUDGES PRO TEMPORE

**1.600 Appointment pro tempore to Supreme Court or Court of Appeals; powers and duties.** (1) The Supreme Court may appoint any regularly elected and qualified judge of the Court of Appeals, Oregon Tax Court or circuit court to serve as judge pro tempore of the Supreme Court, or any regularly elected and qualified judge of the Supreme Court, tax court or circuit court to serve as judge pro tempore of the Court of Appeals, whenever the Supreme Court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice.

(2) An appointment under this section shall be made by order of the Supreme Court. The order shall designate the court to which the judge is appointed and the duration of the appointment. The Supreme Court shall cause a certified copy of the order to be sent to the judge appointed and another certified copy to be filed in the records of the court to which the judge is appointed.

(3) Before entering upon the duties of a judge pro tempore, an appointee under this section 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.

(4) Each judge serving as judge pro tempore as provided in this section has all the judicial powers and duties, while so serving, of a regularly elected and qualified judge of the court to which the judge is appointed. However, a judge pro tempore shall not participate in the review of any case in which the judge pro tempore participated while serving on a lower court. Every decision, order or determination made by the Supreme Court or Court of Appeals while one or more judges pro tempore are 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 and qualified judges of the court.

[1975 c 706 §1]

**1.605 Compensation and expenses for judges under ORS 1.600.** (1) A judge of the

Supreme Court serving as judge pro tempore of the Court of Appeals as provided in ORS 1.600 shall receive the regular salary and expenses of a judge of the Supreme Court, including reimbursement for hotel bills and traveling expenses necessarily incurred by the judge pro tempore in the performance of duties as judge pro tempore.

(2) A judge of the Court of Appeals serving as judge pro tempore of the Supreme Court or a judge of the Oregon Tax Court or circuit court serving as judge pro tempore of the Supreme Court or Court of Appeals as provided in ORS 1.600 shall receive during the period of service as judge pro tempore, in addition to regular salary and expenses, the following compensation and expenses:

(a) An amount equal to the salary for the period of a regularly elected and qualified judge of the court to which the judge is appointed diminished by the amount received by the judge for the period in payment of regular salary as a judge; and

(b) If the judge is required to travel outside the county where the court of the judge is located, reimbursement for hotel bills and traveling expenses necessarily incurred by the judge in the performance of duties as judge pro tempore.

(3) The additional compensation and expenses payable under this section shall be paid by the state upon an itemized statement of the compensation and expenses, certified by the judge pro tempore that the services were performed and the expenses were necessarily and actually incurred. [1975 c 706 §2]

**1.610** [1965 c.494 §1, 1967 c.270 §1; 1969 c 198 §27, 1969 c.577 §1; repealed by 1971 c.311 §2]

**1.615 Appointment pro tempore to tax court, circuit court or district court; powers and duties.** (1) The Supreme Court may assign any regularly elected and qualified judge of the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court or district court to serve as judge pro tempore of the tax court, any circuit court or any district court, whenever the Supreme Court determines that the assignment is reasonably necessary and will promote the more efficient administration of justice.

(2) An assignment under this section shall be made by order of the Supreme Court. The order shall designate the court to which the judge is assigned and the duration of the assignment. Promptly after assignment of a judge under this section, the Supreme Court shall cause a certified copy of the order to be sent to the judge assigned and another certified copy to the court to which the judge is assigned.

(3) It is the duty of a judge assigned under this section to comply with the assignment. A judge assigned under this section is not required to take, subscribe or file any additional oath of office.

(4) Each judge assigned as provided in this section has all the judicial powers and duties, while serving under the assignment, of a regularly elected and qualified judge of the court to which the judge is assigned. The powers, jurisdiction and judicial authority of the judges in respect to any case or matter tried or heard by the judge while serving under the assignment shall continue beyond the expiration of the assignment so far as may be necessary to:

(a) Decide and dispose of any case or matter on trial or held under advisement.

(b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or objections to any cost bill, that may be filed in the case.

(c) Settle a transcript for appeal and grant extensions of time therefor. [1975 c.706 §3, 1979 c 56 §2]

1.620 [1965 c 494 §8; repealed by 1971 c.311 §2]

**1.625 Compensation and expenses for judges under ORS 1.615.** (1) A judge assigned as provided in ORS 1.615 shall receive the regular salary of the judge and expenses as a judge of the court of the judge. A judge of a district court assigned to serve as judge pro tempore of a circuit court shall receive during the period of the assignment, in addition to the regular salary of the judge, an amount equal to the salary for the period of a regularly elected and qualified judge of the circuit court diminished by the amount received by the judge for the period in payment of the regular salary as a judge of a district court.

(2) A judge assigned as provided in ORS 1.615 outside the county in which the judge regularly serves shall receive reimbursement for hotel bills and traveling expenses necessarily incurred by the judge in the performance of the duties of the judge under the assignment.

(3) The additional compensation and expenses payable under this section shall be paid by the state upon an itemized statement of the compensation and expenses, certified by the judge pro tempore that the services were performed and the expenses were necessarily and actually incurred. [1975 c 706 §4]

1.630 [1965 c 494 §2; 1969 c 577 §2, repealed by 1971 c 311 §2]

**1.635 Appointment pro tempore of eligible person to tax court, circuit court or**

**district court.** (1) The Supreme Court may appoint any eligible person to serve as judge pro tempore of the Oregon Tax Court or as judge pro tempore of the circuit court or district court in any county or judicial district, whenever the Supreme Court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice. A person is eligible for appointment if the person is a resident of this state and has been a member in good standing of the Oregon State Bar for a period of at least three years next preceding the appointment.

(2) An appointment under this section shall be made by order of the Supreme Court. The order shall designate the court to which the person is appointed and the duration of the appointment. Promptly after appointment of a person under this section, the Supreme Court shall cause a certified copy of the order to be sent to the appointee and another certified copy to the court to which the appointee is appointed.

(3) An appointment under this section shall not become effective until the appointee subscribes an oath or affirmation substantially as follows:

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"I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the State of Oregon, and that I will faithfully discharge the duties of the office of judge of the \_\_\_\_\_ court of the State of Oregon to the best of my ability."

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(4) The oath or affirmation shall be filed in the office of the Secretary of State. [1975 c 706 §5; 1987 c.762 §1]

1.640 [1965 c.494 §3; 1967 c 270 §2, 1969 c 198 §28; repealed by 1971 c 311 §2]

**1.645 Transfer, challenge, disqualification, supervision of person appointed under ORS 1.635.** (1) A judge pro tempore of a circuit court or district court appointed to serve in any county or judicial district as provided in ORS 1.635 may, at any time while serving under the appointment, be transferred and assigned by the Supreme Court to serve as judge pro tempore in any one or more other counties or judicial districts during the term of the appointment.

(2) Each judge pro tempore appointed and qualified as provided in ORS 1.635 has all the judicial powers, duties, jurisdiction and authority, while serving under the appointment, of a regularly elected and qualified judge of the court

to which the judge pro tempore is appointed or assigned.

(3) The eligibility, appointment or qualification of an appointee under ORS 1.635, or the right of the appointee to hold the position of judge pro tempore in any particular county or judicial district while serving under the appointment, is subject to challenge only in a direct proceeding instituted for that purpose as provided in ORS 30.510 to 30.640. The proceeding may be instituted in the Supreme Court if it consents to take original jurisdiction thereof.

(4) A judge pro tempore appointed as provided in ORS 1.635 is subject to disqualification to sit in any case for any of the causes specified in ORS 14.210 or 14.250.

(5) A judge pro tempore appointed as provided in ORS 1.635 or assigned as provided in subsection (1) of this section to a court with one or more regularly elected and qualified judges on active duty shall be subject to the directions of the regular presiding judge of the court in respect to the assignment of cases and the general administration of the business of the court. [1975 c 706 §6]

1.650 [1965 c.494 §4, repealed by 1971 c 311 §2]

**1.655 Extension and termination of appointment under ORS 1.635; eligibility to appear as attorney.** (1) It is the duty of a judge pro tempore appointed as provided in ORS 1.635 to hear, decide and dispose of all cases and matters submitted to the judge pro tempore as promptly as the nature of the questions involved will permit. The powers, jurisdiction and judicial authority of the judge pro tempore in respect to any case or matter tried or heard by the judge pro tempore while serving under the appointment shall continue beyond the expiration of the appointment so far as may be necessary to:

(a) Decide and dispose of any case or matter on trial or held under advisement.

(b) Hear and decide any motion for a new trial or for a judgment notwithstanding a verdict, or objections to any cost bill, that may be filed in the case.

(c) Settle a transcript for appeal and grant extensions of time therefor.

(2) The Supreme Court at any time by order may:

(a) Extend the term of appointment of a judge pro tempore appointed as provided in ORS 1.635.

(b) Terminate the term of appointment of a judge pro tempore appointed as provided in ORS 1.635 as of a date specified in the order; but

termination does not affect the validity of any judgment, decree, order or other action of the judge pro tempore prior to the effective date of the termination.

(3) A judge pro tempore of a circuit court or district court appointed as provided in ORS 1.635 is not eligible to appear as attorney in that court in any case tried by a jury at the same term of court during which the judge pro tempore served as judge pro tempore. [1975 c.706 §7]

1.660 [1965 c 494 §5, 1967 c.270 §3; 1969 c 706 §64b, repealed by 1971 c.311 §2]

**1.665 Compensation and expenses of persons appointed under ORS 1.635.** (1) A judge pro tempore appointed as provided in ORS 1.635 shall be entitled to receive upon application therefor as compensation for each day the judge pro tempore is actually engaged in the performance of duties under the appointment an amount equal to five percent of the gross monthly salary of a regularly elected and qualified judge of the court to which the judge is appointed, or one-half of that daily compensation for services of one-half day or less. The compensation shall be paid upon the certificate of the judge pro tempore that the services were performed for the number of days shown in the certificate, and in the same manner as the salaries of the regularly elected and qualified judges are paid. A person who wishes or is willing to serve without compensation may do so.

(2) A judge pro tempore appointed as provided in ORS 1.635 or assigned as provided in ORS 1.645 to serve outside the county in which the judge pro tempore resides or maintains an office shall receive, in addition to daily compensation, if any, reimbursement for hotel bills and traveling expenses necessarily incurred by the judge pro tempore in the performance of duties as judge pro tempore. The expenses shall be paid upon an itemized statement of the expenses, certified by the judge pro tempore that the expenses were necessarily and actually incurred, in the same manner as like expenses of regularly elected and qualified judges are paid. [1975 c.706 §8, 1981 c.65 §1]

1.670 [1965 c 494 §6; repealed by 1971 c.311 §2]

**1.675 Judge pro tempore ineligible to participate in selection or removal of Chief Justice, Chief Judge or presiding judge.** A person appointed or assigned to serve and serving as judge pro tempore of a court under ORS 1.600, 1.615 or 1.635 is not eligible to be, or to participate in the selection or removal of, the Chief Justice, Chief Judge or presiding judge of the court to which the person is appointed or assigned. [1981 ss c 1 §6]

**1.680** [1965 c 494 §7, 1969 c 314 §4; repealed by 1971 c.311 §2]

**1.690** [1965 c 494 §9; repealed by 1971 c.311 §2]

**1.700** [1965 c.494 §10, repealed by 1971 c 311 §2]

**1.710** [1965 c.494 §11, 1967 c 270 §4, repealed by 1971 c.311 §2]

## COUNCIL ON COURT PROCEDURES

**1.725 Legislative findings.** The Legislative Assembly finds that:

(1) Oregon laws relating to civil procedure designed for the benefit of litigants which meet the needs of the court system and the bar are necessary to assure prompt and efficient administration of justice in the courts of the state.

(2) No coordinated system of continuing review of the Oregon laws relating to civil procedure now exists.

(3) Development of a system of continuing review of the Oregon laws relating to civil procedure requires the creation of a Council on Court Procedures.

(4) A Council on Court Procedures will be able to review the Oregon laws relating to civil procedure and coordinate and study proposals concerning the Oregon laws relating to civil procedure advanced by all interested persons. [1977 c 890 §1]

**1.730 Council on Court Procedures; membership; terms; meetings; expenses of members.** (1) There is created a Council on Court Procedures consisting of:

(a) One judge of the Supreme Court, chosen by the Supreme Court;

(b) One judge of the Court of Appeals, chosen by the Court of Appeals;

(c) Six judges of the circuit court, chosen by the Executive Committee of the Circuit Judges Association;

(d) Two judges of the district court, chosen by the Executive Committee of the District Judges Association;

(e) Twelve members of the Oregon State Bar, at least two of whom shall be from each of the congressional districts of the state, appointed by the Board of Governors of the Oregon State Bar. The Board of Governors, in making the appointments referred to in this section, shall include but not be limited to appointments from members of the bar active in civil trial practice, to the end that the lawyer members of the council shall be broadly representative of the trial bar. The Board of Governors shall include at least one person

who by profession is involved in legal teaching or research; and

(f) One public member, chosen by the Supreme Court.

(2)(a) A quorum of the council shall be constituted by a majority of the members of the council. An affirmative vote of a majority of the council shall be required to promulgate rules pursuant to ORS 1.735.

(b) The council shall adopt rules of procedure and shall choose, from among its membership, annually, a chairman to preside over the meetings of the council.

(3)(a) All meetings of the council shall be held in compliance with the provisions of ORS 192.610 to 192.690.

(b) In addition to the requirements imposed by paragraph (a) of this subsection, with respect to the public hearings required by ORS 1.740 and with respect to any meeting at which final action will be taken on the promulgation, modification or repeal of a rule under ORS 1.735, the council shall cause to be published or distributed to all members of the bar, at least two weeks before such hearing or meeting, a notice which shall include the time and place and a description of the substance of the agenda of the hearing or meeting.

(c) The council shall make available upon request a copy of any rule which it proposes to promulgate, modify or repeal.

(4) Members of the Council on Court Procedures shall serve for terms of four years and shall be eligible for reappointment to one additional term, provided that, where an appointing authority has more than one vacancy to fill, the length of the initial term shall be fixed at either two or four years by that authority to accomplish staggered expiration dates of the terms to be filled. Vacancies occurring shall be filled by the appointing authority for the unexpired term.

(5) Members of the Council on Court Procedures shall not receive compensation for their services but may receive actual and necessary travel or other expenses incurred in the performance of their official duties as members of the council, as provided in ORS 292.210 to 292.288. [1977 c 890 §2; 1981 c.545 §1]

**1.735 Rules of procedure; limitation on scope and substance; submission of rules to Legislative Assembly.** The Council on Court Procedures shall promulgate rules governing pleading, practice and procedure, including rules governing form and service of summons and process and personal and in rem jurisdiction, in

all civil proceedings in all courts of the state which shall not abridge, enlarge, or modify the substantive rights of any litigant. The rules authorized by this section do not include rules of evidence and rules of appellate procedure. The rules thus adopted and any amendments which may be adopted from time to time, together with a list of statutory sections superseded thereby, shall be submitted to the Legislative Assembly at the beginning of each regular session and shall go into effect on January 1 following the close of that session unless the Legislative Assembly shall provide an earlier effective date. The Legislative Assembly may, by statute, amend, repeal or supplement any of the rules. [1977 c.890 §3, 1979 c.284 §1, 1983 c.751 §6]

**1.740 Employment of staff; council hearing requirements.** In the exercise of its power under ORS 1.735, the council:

(1) May employ or contract with any person or persons, as the council considers necessary, to assist the council; and

(2) Shall hold at least one public hearing in each of the congressional districts of the state during the period between regular legislative sessions. [1977 c.890 §4]

**1.745 Laws on civil pleading, practice and procedure deemed rules of court until changed.** All provisions of law relating to pleading, practice and procedure, including provisions relating to form and service of summons and process and personal and in rem jurisdiction, in all civil proceedings in courts of this state are deemed to be rules of court and remain in effect as such until and except to the extent they are modified, superseded or repealed by rules which become effective under ORS 1.735. [1977 c.890 §5, 1979 c.284 §2]

**1.750 Legislative Counsel to publish rules.** The Legislative Counsel shall cause the rules which have become effective under ORS 1.735, as they may be amended, repealed or supplemented by the Legislative Assembly, to be arranged, indexed, printed, published and annotated in the Oregon Revised Statutes. [1977 c.890 §6]

## JUDICIAL CONFERENCE

**1.810 Judicial conference; membership; officers; expenses.** There hereby is created and established a Judicial Conference of the State of Oregon. The conference shall consist of all the judges of the Supreme Court, the Court of Appeals, the Oregon Tax Court, the circuit courts and the district courts and all senior judges certified under ORS 1.300. The Chief Justice

shall be chairman of the conference and shall have power to invite any persons not members of the conference to attend the meetings of the conference and consult with it in the performance of its duties. The State Court Administrator shall act as executive secretary of the conference. Each member of the conference, the State Court Administrator, and each person invited by the Chief Justice, is entitled to reimbursement for hotel bills and traveling expenses necessarily incurred in the performance of duties relating to the Judicial Conference of the State of Oregon. [1955 c.470 §1; 1959 c.552 §12; 1963 c.423 §2, 1965 c.494 §13; 1969 c.198 §29, 1971 c.95 §1; 1983 c.465 §1]

**1.820 Function of conference.** The conference may make a continuous survey and study of the organization, jurisdiction, procedure, practice and methods of administration and operation of the various courts within the state. Such survey and study may be coordinated with any similar survey and study made by the Judicial Council of the State of Oregon. [1955 c.470 §2, 1965 c.494 §14]

**1.830 Meetings.** The conference shall meet at such time as shall be designated by its chairman, not less than once annually. [1955 c.470 §3; 1965 c.494 §15]

**1.840 Annual report.** The conference shall report annually to the Governor with respect to such matters, including recommendations for legislation, as it may wish to bring to the attention of the Governor or of the legislature. [1955 c.470 §4, 1959 c.552 §13; 1965 c.494 §16]

## SPECIAL COURTS ADVISORY COMMITTEE

**1.850 Special Courts Advisory Committee; membership and term; functions.** (1) The Special Courts Advisory Committee is established. The committee shall be an agency of the Supreme Court to serve as an advisory committee to the Supreme Court and the Chief Justice thereof on matters relating to rules, educational program procedures, records and reports of the justices' and municipal courts in this state.

(2) The committee shall consist of:

(a) Two justices of the peace appointed by the Chief Justice from nominees submitted by the president of the Oregon Justices of the Peace Association;

(b) Two municipal court judges appointed by the Chief Justice from nominees submitted by the president of the Oregon Municipal Judges Association;

(c) One member of a county governing body appointed by the Chief Justice from nominees

submitted by the president of the Association of Oregon Counties;

(d) One member of a city governing body appointed by the Chief Justice from nominees submitted by the president of the League of Oregon Cities; and

(e) One representative of the Supreme Court appointed by the Chief Justice.

(3) The term of membership of a member of the committee is three years, beginning on July 1. A member is eligible for reappointment if qualified for membership at the time of reappointment, but is not eligible for reappointment for a third consecutive three-year term. If there is a vacancy for any cause in the position of member before the expiration of the term of membership, the Chief Justice shall make an appointment to become immediately effective for the unexpired term.

(4) The committee shall:

(a) Advise the Supreme Court and Chief Justice regarding rules for the conduct of cases in the justices' and municipal courts.

(b) Conduct and supervise conferences and other educational programs for justices of the

peace, municipal court judges and their staff. It shall be the duty of all such justices, judges and staff to attend or participate in those conferences and programs.

(c) Cooperate with the Supreme Court and Chief Justice in the supervision of the justices, and municipal courts in establishing methods and forms of keeping court records and in making and publishing reports of court business.

(d) Provide information concerning the justices' and municipal courts to the Judicial Conference of the State of Oregon and the Legislative Assembly.

(5) The members of the committee shall elect a chairperson from their number, who shall serve as chairperson for a term of two years beginning on the date of election and until a successor is elected.

(6) A member of the committee shall not receive compensation or expenses for service as a member. [1985 c.725 §5]

**Note:** ORS 1.850 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 1 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

