

Chapter 2

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Supreme Court; Court of Appeals

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SUPREME COURT

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

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

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

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

2.045 Chief Justice. (1) The Chief Justice of the Supreme Court shall be a judge of the court selected by vote of a majority of the judges of the court. The judges of the court shall endeavor to select a judge who is well qualified to act as the administrative head of the judicial department of government in this state.

(2) The Chief Justice may be removed from the office of Chief Justice by vote of a majority of the judges of the court when the Chief Justice fails to perform adequately the functions of the office.

(3) The term of office of the Chief Justice is six years, commencing on the date of selection. The term of office of the Chief Justice is not interrupted by expiration of the term of the Chief Justice as a judge of the court if the judge is elected judge of the court for a succeeding term. A judge may be selected as Chief Justice for successive terms of the office of Chief Justice.

(4) If there is a vacancy for any cause in the office of Chief Justice, a successor Chief Justice shall be selected by vote of a majority of the judges of the court.

(5) The Chief Justice may designate another judge of the court to perform the functions of the office of Chief Justice when the Chief Justice is temporarily unable to perform those functions. [1959 c.384 §2 (enacted in lieu of 2.050); 1981 s.s. c.1 §1]

2.050 [Repealed by 1959 c.384 §1 (2.045 enacted in lieu of 2.050)]

2.052 [1959 c.44 §1; 1969 c.198 §31; repealed by 1975 c.706 §10]

2.055 [1959 c.44 §2; repealed by 1975 c.706 §10]

2.058 [1959 c.44 §3; 1961 c.387 §1; 1969 c.198 §32; repealed by 1975 c.706 §10]

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

2.070 [Repealed by 1983 c.763 §9]

2.080 [Repealed by 1979 c.55 §1]

2.090 [Repealed by 1979 c.55 §1]

2.100 Quorum. Subject to ORS 2.111, the presence of a majority of all the judges of the Supreme Court is necessary for the transaction of any business, except that less than a majority of the judges may meet and adjourn from day to day, or for the term, with the same effect as if all the judges were present. [Amended by 1959 c.44 §6; 2003 c.14 §4]

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

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

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

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

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

(5) The Chief Justice or a majority of the regularly elected and qualified judges of the Supreme Court at any time may refer a cause to be considered en banc. When sitting en banc, the court may include not more than two judges pro tempore of the Supreme Court. When the court sits en banc, the concurrence of a majority of the judges participating is necessary to pronounce a judgment, but if the judges participating are equally divided in their views as to the judgment to be given, the decision being reviewed shall be affirmed.

(6) The Chief Justice may rule on motions and issue orders in procedural matters in the Supreme Court.

(7) A judge or judge pro tempore of the Supreme Court may participate in the decision of the matter without resubmission of

the cause even though the judge is not present for oral argument on the matter.

(8) A judge or judge pro tempore of the Supreme Court may participate in the decision of a matter without resubmission of the cause in the following circumstances:

(a) The judge was appointed or elected to the Supreme Court after submission of the cause.

(b) The judge is participating in the decision of a cause that was submitted to a department, and the judge is participating in lieu of a judge of the department who died, became disabled, was disqualified or was otherwise unable to participate in the decision of a cause submitted to the department.

(c) The judge is considering a cause en banc, but the judge was not part of the department that originally considered the cause. [1959 c.44 §5 (enacted in lieu of 2.110); 1995 c.273 §24; 1999 c.659 §1]

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

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

2.140 [Repealed by 1953 c.345 §3]

PUBLICATION OF COURT DECISIONS

2.141 Filing of court decisions. The judges of the Supreme Court and Court of Appeals shall cause their decisions to be prepared, in such number and manner as they may determine, and delivered to the State Court Administrator. The administrator shall file a copy of each decision in the office of the administrator and cause other copies to be distributed as determined by the Supreme Court. [1953 c.345 §1; 1965 c.233 §2; 1967 c.398 §1; 1971 c.193 §9; 1971 c.348 §2; 1971 c.526 §1; 1973 c.781 §1; 1975 c.69 §4; 1979 c.876 §1]

2.145 [Formerly 2.580; repealed by 1975 c.69 §8]

2.150 Publication and distribution of court decisions and other official documents. (1) The Supreme Court shall arrange for the publication and distribution of bound volumes of reports of decisions of the Supreme Court and Court of Appeals, of bound volumes of reports of decisions of the Oregon Tax Court determined to be of general public interest under ORS 305.450, of unbound copies of those decisions to be used as advance sheets and press summaries, rules and other official judicial department publications. The bound volumes of reports or ad-

vance sheets shall contain additional material as the Supreme Court may direct.

(2) The bound volumes of reports or advance sheets or both may be printed and bound, as the Supreme Court shall determine, by:

(a) The Oregon Department of Administrative Services in the same manner as other state printing; or

(b) A private printer pursuant to a contract entered into by the Supreme Court with the printer and not subject to ORS 282.020.

(3) The bound volumes of reports or advance sheets or both may be distributed, as the Supreme Court shall determine, by:

(a) The State Court Administrator; or

(b) A private distributor pursuant to a contract entered into by the Supreme Court with the distributor.

(4) The bound volumes of reports and advance sheets shall be distributed without charge as determined by the Supreme Court or sold by the distributor. Except as otherwise provided in a contract entered into under subsection (3)(b) of this section, the State Court Administrator shall determine sale prices and all moneys collected or received from sales shall be paid into the Court Publications Account established by ORS 2.165.

(5) In addition to bound volumes of reports or advance sheets under the provisions of this section, the Supreme Court may make any of the decisions of courts or other court publications available in electronic format. Access to the electronic publications may be without charge or subject to such charge as may be established by the Supreme Court. All moneys collected or received from sales shall be paid into the Court Publications Account established by ORS 2.165. [Amended by 1961 c.103 §1; 1973 c.781 §2; 1975 c.69 §5; 1979 c.876 §2; 1982 s.s.1 c.7 §1; 1987 c.328 §1; 1993 c.98 §10; 1995 c.79 §2; 1997 c.801 §111]

2.160 [Amended by 1961 c.103 §2; 1971 c.193 §10; 1973 c.781 §3; 1975 c.69 §6; repealed by 1979 c.976 §4]

2.165 Court Publications Account. There is established in the General Fund an account to be known as the Court Publications Account. All moneys in the account are appropriated continuously to the Supreme Court for the purpose of paying expenses incurred by the court under ORS 2.150 and for the purpose of paying all or part of the expenses of providing electronic access to State of Oregon Law Library materials and other official Judicial Department publications. Disbursements of moneys from the account shall be approved by the Chief Justice of the Supreme Court or, as directed by the Chief Justice, the State Court Administrator. [1982 s.s.1 c.7 §3; 2001 c.779 §4]

2.170 [1967 c.398 §9(1),(2); 1971 c.193 §11; 1975 c.69 §7; repealed by 1979 c.976 §4]

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

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

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

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

2.350 [1959 c.552 §2; renumbered 8.060]

COURT OF APPEALS

2.510 Court of Appeals. As part of the judicial branch of state government, there is created a court of justice to be known as the Court of Appeals. [1969 c.198 §1; 1969 c.591 §262a; 1971 c.567 §1; 1971 c.734 §33; 1975 c.611 §22; 1977 c.158 §4]

2.515 [1969 c.198 §77; repealed by 1977 c.158 §5]

2.516 Jurisdiction of all appeals exclusive; exceptions. Except where original jurisdiction is conferred on the Supreme Court by the Oregon Constitution or by statute and except as provided in ORS 19.405 and 138.255, the Court of Appeals shall have exclusive jurisdiction of all appeals. [1977 c.158 §2; 1981 c.550 §5]

2.520 Procedure for review of decisions of Court of Appeals. Any party aggrieved by a decision of the Court of Appeals may petition the Supreme Court for review within 35 days after the date of the decision, in such manner as provided by rules of the Supreme Court. [1969 c.198 §2; 1973 c.516 §1; 1983 c.774 §2]

2.530 [1969 c.198 §3; repealed by 1977 c.158 §5]

2.540 Number of judges of Court of Appeals; qualifications; term. (1) The Court of Appeals shall consist of 10 judges.

(2) A judge of the Court of Appeals shall be an elector of the county of the residence of the judge and be admitted to the practice of law in this state.

(3) Each judge of the Court of Appeals shall hold office for a term of six years and until a successor is elected and qualified. [1969 c.198 §4; 1973 c.377 §1; 1977 c.451 §1]

2.550 Chief Judge. (1) The Chief Judge of the Court of Appeals shall be a judge of the court appointed as provided in ORS 1.003.

(2) The Chief Judge may designate another judge of the court to perform the functions of the office of Chief Judge when the Chief Judge is temporarily unable to perform those functions.

(3) The Chief Judge, to facilitate exercise of administrative authority and supervision over the court and consistent with applicable provisions of law, may make rules, issue orders and take other action appropriate to that exercise. [1969 c.198 §5; 1981 s.s. c.1 §7]

2.560 Rules; where court sits; appellate mediation program. (1) The Court of Appeals shall sit primarily in Salem, but also may sit in other locations designated under ORS 1.085 (2).

(2) The Court of Appeals may make and enforce all rules necessary for the prompt and orderly dispatch of the business of the court, and the remanding of causes to the lower courts, and not inconsistent with applicable rules made or orders issued by the Chief Justice of the Supreme Court or the Chief Judge of the Court of Appeals.

(3) The Court of Appeals shall establish an appellate mediation program and make and enforce all rules necessary for the prompt and orderly dispatch of the business of the program. The parties to the appeal shall pay the fees of a mediator providing services under the program, unless those fees are waived or deferred by the Court of Appeals. [1969 c.198 §7; 1971 c.193 §7; 1973 c.484 §2; 1981 s.s. c.1 §20; 1983 c.763 §4; 1997 c.801 §87]

2.565 Appellate Mediation Program Revolving Account. The Appellate Mediation Program Revolving Account is established within the General Fund. The Judicial Department shall pay into the State Treasury \$40 of each filing fee paid by petitioners under the provisions of ORS 21.010, and \$24 of each filing fee paid by respondents under the provisions of ORS 21.010. The State Treasurer shall deposit the moneys in the General Fund to the credit of the Appellate Mediation Program Revolving Account. The moneys in the account are appropriated continuously to the Judicial Department, and may be used only for the purpose of administering the appellate mediation program established under the provisions of ORS 2.560, including payment of administrative costs and costs of providing mediation services to indigent parties. [1997 c.801 §88]

2.570 Departments of court; sitting in departments or en banc; participation in decision of matter. (1) In hearing and determining causes, the judges of the Court of Appeals may sit together or in departments.

(2) A department shall consist of three judges. For convenience of administration, each department may be numbered. The Chief Judge shall from time to time designate the number of departments and make assignments of the judges among the departments. The Chief Judge may sit in one or more departments and when so sitting may preside. The Chief Judge shall designate a judge to preside in each department.

(3) The majority of any department shall consist of regularly elected and qualified judges of the Court of Appeals. However, if disqualifications, recusals or other events reduce the number of available judges to fewer

than three, the Supreme Court may appoint such number of qualified persons as may be necessary as pro tempore members of the Court of Appeals.

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

(5) The Chief Judge or a majority of the regularly elected and qualified judges of the Court of Appeals at any time may refer a cause to be considered en banc. When sitting en banc, the court may include not more than two judges pro tempore of the Court of Appeals. When the court sits en banc, the concurrence of a majority of the judges participating is necessary to pronounce judgment, but if the judges participating are equally divided in their view as to the judgment to be given, the judgment appealed from shall be affirmed.

(6) The Chief Judge may rule on motions and issue orders in procedural matters in the Court of Appeals.

(7) A judge or judge pro tempore of the Court of Appeals may participate in the decision of the matter without resubmission of the cause even though the judge is not present for oral argument on the matter.

(8) A judge or judge pro tempore of the Court of Appeals may participate in the decision of a matter without resubmission of the cause in the following circumstances:

(a) The judge was appointed or elected to the Court of Appeals after submission of the cause.

(b) The judge is participating in the decision of a cause that was submitted to a department, and the judge is participating in lieu of a judge of the department who has died, become disabled, is disqualified or is otherwise unable to participate in the decision of a cause submitted to the department.

(c) The judge is considering a cause en banc, but the judge was not part of the department that originally considered the cause. [1969 c.198 §6; 1973 c.108 §1; 1985 c.734 §1; 1989 c.124 §3; 1999 c.59 §2; 1999 c.659 §2; 2003 c.14 §5]

2.580 [1969 c.198 §8; renumbered 2.145]

2.590 Expenses for judges when away from state capital. When a judge of the Court of Appeals holds court or performs any other official function away from the state capital, hotel bills and traveling expenses necessarily incurred by the judge in the performance of that duty shall be paid by the state. Such expenses are to be paid upon the certificate of the judge to the truth of an itemized statement of the expenses in the manner provided by law. [1969 c.198 §10]

2.600 [1969 c.198 §30; repealed by 1975 c.706 §10]

ALTERNATIVE DISPUTE RESOLUTION

2.700 Liability of persons providing dispute resolution services. In any program established by the Oregon appellate courts to promote settlement of cases that have been filed with that court, persons assigned to a case through the program to assist and facilitate in working toward a settlement for the case are immune from civil liability for or resulting from any act or omission done or made while engaged in efforts to assist or facilitate a settlement, unless the act or omission was made or done in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or property of another. [1995 c.678 §3]