



BIENNIAL REPORT
of the
OREGON LAW COMMISSION
2023 - 2025

DRAFT

The Oregon Law Commission (The Commission) is the neutral, nonpartisan law reform body for the State of Oregon. The Commission is housed at the University of Oregon School of Law.

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Letter from the Chair

This Biennial Report reflects the Commission's work from 2023 – 2025. We are pleased to take this opportunity to share with you the work completed by the Commission this biennium and to also share some updates that have occurred since our last report.

Work Completed

The Oregon Law Commission, with the help of over 50 dedicated and exceptional volunteers, completed work on two pieces of recommended legislation for the 2025 Legislative Assembly. In addition, the Commission is already looking ahead to 2026 and 2027 and has commenced work or will begin work on several other significant law reform projects.

Changes for the Commission

The Oregon Law Commission experienced changes in its membership this biennium. Professor Susan Gary retired from the University of Oregon School of Law and was replaced by Professor Kristen Bell in 2024. Dean Brian Gallini left the Willamette University College of Law and was replaced by Dean Jeffrey Dobbins in 2024. Dean John Parry from Lewis and Clark School of Law will be stepping down from the Commission. Former Commission Chair, PK Runkles-Pearson, the Governor's Appointee, stepped back from the Commission as well.

In addition, Sandy Weintraub, former director of the Oregon Law Commission moved to the University of Oregon and Debbie Thurman, the Commission's administrative staff, retired as well. Amy Zubko, the current director of the Commission, joined the Commission in March 2024.

A deep thank you to the Commissioners and staff for their dedication and sincere interest in the Commission's efforts.

Update on the Commission

Priorities for the Commission in 2024 and 2025 have included communication with and support of the Commission's workgroup chairs and participants, regular meetings of the full Commission, updates to the Commission's website, and a relaunch of the Commission's student fellow program.

The Commission introduced two bills in the 2025 Legislative Session, LC 156, the Municipal and Justice Court Appeals Process and LC 266, modernization of Oregon's Limited Liability Company Act. Two new workgroups, the Electronic Wills Workgroup and the Partition of Heirs Property Workgroup, are expected to begin in 2025.

Thank you

We would like again to thank all of the distinguished and very capable members of the Commission, its Work Groups, and the Director's office at University of Oregon School of Law for their extensive efforts on behalf of the Commission. Thank you as well to the University of Oregon School of Law for its support of the Commission. We look forward

to the Commission's continued law reform service in support of the Oregon Legislature and the State of Oregon.

Valerie Sasaki
Chair, Oregon Law Commission

Letter from the University

To be added.

From the Director's Office

With the help of many dedicated volunteers serving on the Oregon Law Commission and its workgroups, the Law Commission prepared two law reform projects during the 2023 – 2025 biennium. This brings the Law Commission's total output from its first session in 1999 to 115 bills, of which approximately 90 percent have been enacted as proposed or with limited amendments.

This biennium, the Law Commission efforts focused on two substantial projects, an update of Oregon's Limited Liability Company Act and an update of Oregon's Municipal and Justice Courts Appeals Process. In addition, the Commission will begin work on two new projects, the Uniform Electronic Wills Act and the Partition of Heirs Property Act. Additional proposals continuing the work on Municipal and Justice Court Appeals and a workgroup looking at the Model Corporation Act are expected to begin in the next biennium.

This Biennial Report contains the explanatory reports from the Commission's bills that were presented during the 2025 legislative session, and documents the Commission's work from July 1, 2023 through June 30, 2025. It is our hope that this report gives your clearer insight into the Commission's law reform process, its work, and its potential for the future. The Commission and its staff are proud of its reputation of providing quality law reform recommendations that address complex areas of law by working with the private bar, all three branches of government, and the citizens of Oregon.

We wish to again thank the Oregon Legislative Assembly, the Office of Legislative Counsel and the University of Oregon School of Law for their support of the Commission and dedication to the work of law improvement and reform in the state. Finally, and most important, we extend our thanks to the many volunteers and legislative staff who have given their time to make this biennium a success.

Amy Zubko
Director
Oregon Law Commission

Commissioners of the Oregon Law Commission

Valerie Sasaki, Chair

Appointed by Board of Governors, Oregon State Bar

Attorney at Law, Samuels Yoelin Kantor LLP, Portland, Oregon

P.K. Runkles-Pearson, Vice-Chair

Appointed by the Governor of the State of Oregon

Attorney at Law, Oregon Secretary of State, Salem Oregon

Justice Rebecca A. Duncan

Designee of Chief Justice of the Supreme Court

Justice, Oregon Supreme Court

Chief Judge Erin C. Lagesen

Ex Officio

Chief Judge, Oregon Court of Appeals

Senior Judge Mary Mertens James
Oregon Judicial Department

Appointed by Chief Justice of the Supreme Court

Lisa Udland

Designee of Attorney General

Deputy Attorney General, Oregon Department of Justice

Hon. Floyd Prozanski

Appointed by Senate President

Senator, State of Oregon, Eugene, Oregon

John DiLorenzo, Jr.

Appointed by Senate President

Attorney at Law, Davis Wright Tremaine LLP, Portland, Oregon

Rep. Jason Kropf

Appointed by Speaker of the House

Oregon House of Representatives, Bend, Oregon

Rep. Kim Wallan

Appointed by Speaker of the House

Oregon House of Representatives, Medford, Oregon

Professor Kristin Bell

Designee of University of Oregon School of Law Dean

Professor, University of Oregon School of Law, Eugene, Oregon

Dean John Parry

Dean of Lewis and Clark Law School

Lewis and Clark Law School, Portland, Oregon

Dean Jeffrey Dobbins

Dean of Willamette College of Law

Willamette University College of Law, Salem, Oregon

Cody Hoesly

Appointed by Board of Governors, Oregon State Bar

Attorney at Law, Barg Singer Hoesly PC, Portland, Oregon

Christa Obold Eshleman

Appointed by Board of Governors, Oregon State Bar

Attorney at Law, Youth Rights and Justice, Portland, Oregon

Staff of the Oregon Law Commission

University of Oregon School of Law Staff

Amy Zubko
Director

Sandy Weintruab
Director (2018 – 2024)

Debbie Thurman
Administrative Assistant (2018 – 2024)

State of Oregon

Dexter Johnson
Legislative Counsel

We recognize and thank all of the Legislative Counsel attorneys, staff, and editors who worked tirelessly with the Commission, enabling us to complete our recommended legislation. We also recognize and thank all of the Legislative Policy and Research Staff counsel and staff who assisted the Commission throughout the legislative session.

Law Student Staff

One of the goals of the Law Commission is to bring the legal academic community into the law reform process together with legislators, lawyers, judges, and other interested parties. Law students assist the Commission in a variety of ways, including researching new law reform projects, writing legal memoranda, attending Law Commission meetings, and writing final reports. The following law students, from University of Oregon School of Law, served the Oregon Law Commission this biennium:

Thomas Grossman
Oregon Law Commission Fellow
2024 - 2025

Undergraduate Student Staff

The following students, from University of Oregon, served the Oregon Law Commission this biennium. These students assisted in a variety of ways, focusing on administrative and research projects.

Anne Koontz
Office and Research Assistant
Summer 2024

Commission History and Membership

The Legislative Assembly created the Oregon Law Commission in 1997 to conduct a "continuous program" of law revision, reform, and improvement. ORS 173.315. The Commission's predecessor, the Law Improvement Committee, had fallen inactive, and the State wisely perceived the need for an impartial entity that would address gaps in the law and areas of the law that were confusing, conflicting, inefficient, or otherwise meriting law reform or improvement.

Legislative appropriations supporting the Commission's work began on July 1, 2000. At that time, the State, through the Office of Legislative Counsel, entered into a public-private partnership with Willamette University's College of Law. Between 2000 and 2017, Willamette served as the physical and administrative home for the staff of the Law Commission.

In 2017 the Commission moved to the University of Oregon School of Law. Similar to Willamette, the University of Oregon School of Law provides office space, administrative and legal research support for the Commission and its Work Groups. University of Oregon also facilitates law student and faculty participation in support of the Commission's work.

To carry out its purposes, the Commission is made up of fifteen Commissioners pulled from a unique combination of entities within the state of Oregon. The Commission includes four individuals appointed by legislative leadership, including three current legislators; three representatives from the judicial branch including a Justice from the Oregon Supreme Court, Chief Judge of the Court of Appeals, and a trial court judge; the deputy Attorney General; a governor's appointee; the deans (or their representatives) from each of the three law schools in Oregon; and three representatives from the Oregon State Bar. These Commissioners lead the Commission's various law projects each biennium by chairing work groups composed of experts in the given area of law reform.

Commission Law Reform Project Selection and Reform Process

The Commission serves the citizens of Oregon and the legislature, executive agencies, and judiciary by keeping the law up to date through proposed law reform bills, administrative rules, and written policy analysis. It accomplishes this by identifying appropriate law reform projects through suggestions gathered from the citizens of Oregon, each branch of government, and the academic community. By remaining in close personal contact with the people who know and use Oregon law, the commissioners and staff are able to identify areas of the law generally considered as "broken" and in need of repair.

Once potential projects are identified, the Commission researches the areas of law at issue, with a particular emphasis on gathering input from impartial experts and those who may be affected by proposed reforms. Staff works with project proponents in order to identify and draft a formal proposal for the Commission.

Formal proposals for commission projects are initially presented to the Commission's Program Committee, currently chaired Valarie Sasaki, current Chair of the Commission and appointee of the Oregon State Bar. Relying on written guidelines governing the selection process, the Program Committee reviews written law reform project proposals and makes recommendations to the full Commission regarding which proposals should be studied and developed by the Commission. Along with commission staff, the Program Committee helps to manage the workload of the Commission and identify a reasonable scope for projects to be recommended to the Commission.

In considering the Program Committee recommendations, the Commission uses several factors to select law reform project proposals for action. Priority is given to private law issues that affect large numbers of Oregonians and public law issues that are not within the scope of an existing agency. The Commission also considers the resource demands of a particular project, the length of time required for study and development of proposed legislation, the presence of existing rules or written policy analysis, and the probability of approval of the proposed legislation by the Legislative Assembly and the Governor.

Once a law reform project has been approved by the full Commission for study and development, a Work Group is formed. This biennium, approximately 60 volunteers will serve on Commission Work Groups. The Work Groups are generally chaired by a Commissioner and often have a designated Reporter to assist with the project. Work Group members are selected by the Commission based on their recognized expertise, with Work Group advisors and interested parties invited by the Commission to present the views and experience of those affected by the areas of law in question. The Commission works to produce reform solutions of the highest quality and general usefulness by drawing on a wide range of experience and expertise, and by placing an emphasis on consensus decision-making, rather than by placing reliance on specific interest-driven policy making. This is hard to do, but constant vigilance over the process by the Commissioners and staff, with heavy reliance on the expertise of technically disinterested Work Group members, has tended to minimize the influence of personal or professional self-interest on the recommendations of the Commission.

The Law Commission is unique in that it "shows its work" through its stock in trade: written reports that detail each law reform project's objectives, the decision-making process, and the substance of the proposed legislation. The reports work to identify any points of disagreement on specific policy choices, and set out the reasons for and against those choices. When there is dissent or uncertainty within the work group, the report makes an effort to identify the reason for that conflict and to explain why the Work Group chose to resolve it the way that it did. The Legislative Assembly is then able to identify and resolve any necessary policy choices embedded in the recommended legislation.

A Work Group's deliberations result in the presentation of proposed legislation and the accompanying written report to the full Commission. The Commission reviews the product of each work group in detail before making its final recommendations to the Legislative Assembly. Those recommendations, in the form of proposed legislation and the accompanying report, are distributed during Session at the time each bill is proposed in Committee and then followed throughout the legislative process. Whether the proposed bills are adopted in full, adopted with amendments, or ultimately fail, the Commission's commitment to thoughtful public policy formation, and the value of memorializing the decisions made in developing the laws, cannot be overstated.

Oregon Law Commission 2023 - 2025
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The purpose of the Oregon Law Commission is to conduct continuous substantive law revision. *See* ORS 173.338. The commission does this by reviewing the common law and statutes of the state, considering changes in law recommended by learned bodies, considering suggestions from justices, judges, public officials, lawyers, and the public, and considering topics referred by the Legislative Assembly.

The Oregon Law Commission held, and will hold, meetings from July 1, 2023, through June 30, 2025 at the indicated locations on the following dates:

June 7, 2024	Remote
October 11, 2024	Remote
December 5, 2024	Remote
January 10, 2025	Remote (scheduled)
April 18, 2025	Remote (scheduled)

The Oregon Law Commission meets as necessary to review proposed law reform projects. Please contact the Commission at (541) 346-3298 or check the Commission's Master Calendar web page at the following URL to confirm dates of future meetings: <https://law-olc.uoregon.edu/>.

Oregon Law Commission Program Committee 2023 - 2025

The purpose of the Program Committee is to review law reform projects that have been submitted to the Oregon Law Commission, and then review and make recommendations to the Commission.

Commissioners serving on the Program Committee during some or all of the 2023 – 2025 biennium:

Valerie Sasaki
Professor Kristin Bell
Dean Jeffrey Dobbins
Cody Hoesly
Justice Rebecca Duncan
Chief Judge Erin C. Lagesen
Senior Judge Mary Mertens James
Dean John Parry

The Program Committee held two meetings from July 1, 2023, through June 30, 2025 at the indicated locations on the following dates:

July 26, 2023	Remote
December 5, 2024	Remote

The Program Committee meets as necessary to review proposed law reform projects for the Oregon Law Commission. Please contact the Commission at (541) 346-3298 or check the Commission's Material's web page at the following URL to confirm dates of future meetings: <https://law-olc.uoregon.edu/>.

Upcoming Projects

To be added

Report Note

The explanatory reports provided in the following section were approved by both the respective Work Group and by the Oregon Law Commission for recommendation to the Legislative Assembly, unless otherwise noted in the report. The reports were also submitted as written testimony to the Legislative Committees that heard the respective bills. Thus, these reports can be found in the State Archives as they constitute legislative history.

The reports are generally printed as presented to the Commission; however, some reports had minor edits made after the Commission's approval. Furthermore, some bills were amended after the Commission approved recommendation of the bill and accompanying explanatory report. Rather than try to change the text of the reports affected, and to assist the reader, the Director's office has inserted an "Amendment Note" at the conclusion of some reports when a bill was amended to provide context and history.

Insert Modernization of Limited Liability Company Act Report here

Insert Municipal and Justice Court Appeals Process Report Here

Program Committee Selection Criteria

In addition to the guidance of ORS 173.338, the Oregon Law Commission approved the following criteria for the selection of law reform projects for development by the Commission:

Selection of Issues for Study/Development of Legislation

The Commission should select issues for study/development of legislation based on the following criteria:

- A. **Source of Work Proposals (Priorities)**
 - 1. Legislative Assembly proposals approved by resolution, legislative leadership or committee chair;
 - 2. Judicial branch proposals approved by the Chief Justice of the Supreme Court, Judicial Conference or State Court Administrator;
 - 3. Legislative Counsel proposals;
 - 4. Law school proposals;
 - 5. Oregon State Bar section proposals;
 - 6. Commission member proposals; and
 - 7. Other sources
- B. **Nature of Issues**

The Commission should give highest priority to private law issues that affect large numbers of Oregonians and public law issues that fall outside particular regulatory areas administered by state agencies.
- C. **Resource Demands**

The Commission should select issues that available staff and the Commission can finish within the time set for study/development of legislation.
- D. **Probability of Approval by Legislature/Governor**

The Commission should select issues that can lead to legislative proposals with a good prospect of approval by the legislature and Governor.
- E. **Length of Time Required for Study/Development of Legislation**

The Commission should select issues that include both those permitting development of proposed legislation for the next legislative session and those requiring work over more than one biennium.

Program Committee: Project Proposal Outline

Do you (or does your organization) have a law reform project that is well-suited for study by the Oregon Law Commission?

A written law reform proposal seeking involvement of the Oregon Law Commission should be addressed to the Oregon Law Commission Program Committee for consideration and contain the following preferred sections:

1. **PROBLEM:** Identify the specific issue to be studied or addressed by the Law Commission and explain the adverse consequences of current law. An illustration from real life might be helpful.
2. **HISTORY OF REFORM EFFORTS:** Explain past efforts to address the problem and the success or limits of those efforts.
3. **SCOPE OF PROJECT:** Explain what needs to be studied, evaluated or changed to fix the problem.
4. **LAW COMMISSION INVOLVEMENT:** Explain why the issue is a good subject for law reform of broad general interest and need (as opposed to an issue likely to be advanced by a single interest group or lobby).
5. **PROJECT PARTICIPANTS:** Identify individuals who are willing to serve on a Work Group, and a Reporter who is willing to work with the Chair of the Work Group to draft a Report and Comments. The Chair of the Work Group should be a Commissioner. The Proposal may state a preference for a chair.

Mailing Address:
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Illustrative Outline of a Report to the Oregon Law Commission

All Commission recommended legislation should be accompanied by a report that among other things explains the need for the bill and the details of the bill. The following is an outline of a report to the Oregon Law Commission for Work Groups to consider when preparing their own reports to the Commission. Of course, each Work Group's issues are unique and certain sections outlined below may not be necessary for every report. Therefore, the following outline is only a guide and actual reports may differ.

I. Introductory summary

This section briefly identifies the problem area, the reason why it needs attention, and the overall objective of the bill. The introductory summary may be followed by the actual text of the proposal's scope section, if the text is quite brief, otherwise by a summary of its provisions.

II. History of the project

This section recounts when the OLC undertook the project, who led it, who was on the Work Group, who participated in the research and the design of the proposal, the process of consultation with experts in or outside Oregon, and interested persons outside the Commission.

III. Statement of the problem area

This section explains in some detail what in the existing state of the law is problematic, either by reason of uncertainty and lack of clear standards, or because apparently clear standards are inconsistent or self-contradictory, or are outmoded, inefficient, inadequate, or otherwise unsatisfactory.

IV. The objectives of the proposal

The preceding sections set the stage for now identifying the objectives of the proposal concretely (as distinct from general goals like "clarification," "simplification," or "modernization") in advance of explaining the choice of legal means to achieve those concrete objectives. This section would identify propositions that are uncontroversial and others on which different interests have competing objectives. If one objective of the proposal is to craft an acceptable compromise among competing interests, this section would candidly state what opposing positions were argued in the consultations, and why the proposal represents the best and most principled accommodation of those that have merit. This section would also note any issues that were discussed but were deferred, complete with an explanation of the deferral.

V. Review of legal solutions existing or proposed elsewhere

The report here or later should describe models of existing or proposed legal formulations that were examined in preparing the proposal. An explanation of how Oregon compares with the rest of the states would be helpful.

VI. The proposal

In this section, the report should set forth the whole proposal verbatim, except for revisions of a lengthy statute that is better attached as an appendix. The report would then proceed by setting out significant parts of the bill section by section (or by multi-section

topics), followed by explanatory commentary on each item. American Law Institute statutory projects offer an illustrative model.

On occasion, the Commission may choose to offer alternative drafts. This can be appropriate when the Commission considers it important that a statute (or rule) provide clear and consistent guidance on a legal problem while leaving to the political decision-makers the choice of which among competing policy objectives should prevail.

VII. Conclusion

The conclusion summarizes the reasons why the bill should be adopted.

VIII. Appendices

These would include a bibliography of sources, and perhaps relevant statutory texts or excerpts from other relevant documents or published commentary bearing on the proposal.

IX. Form of publication

A formal report to the Oregon Law Commission should be reproduced in a format suitable for preservation by the Commission, Legislative Counsel, the Department of Justice, and for distribution to libraries and other interested subscribers, perhaps by one of the state's academic law reviews.

Apart from the formal report, the experts who worked on the project should be encouraged to publish their own articles analyzing and commenting on the subject of the report in more detail. Publication in these two different forms was the common practice for scholarly reports to the Administrative Conference of the United States.

Managing Mid-Session Amendments to Law Commission Recommended Bills

MEMORANDUM

To: Commissioners of the Oregon Law Commission
From: David Kenagy
Date: September 6, 2001
Re: Managing Mid-Session Amendments to Law Commission recommended bills

Our experience in the 2001 Legislative Session taught that even the most carefully drafted Law Commission legislative recommendations will be amended during the legislative process. We also learned that the amendments may be proposed from many sources for reasons some of which may not even be known or revealed until after an amendment has been adopted.

Other Law Commissions around the country have faced the same issue. In general they favor maximum flexibility for those charged with guiding the legislation on behalf of the Commission. They do not adopt policy constraining the process but follow understood practices that have developed over their years of experience. I suggest that we do the same. This memo displays the broad outlines of the approach used by the Executive Director's office, which we intend to use in the future, subject to further guidance from the Commission.

You will recall that in light of the experiences of the 2001 Session, the Commission discussed at its July 13, 2001 meeting how to best process the inevitable amendments to Law Commission bills. This discussion included a desire to see Commission recommendations enacted, unless the content of the final enactment departs fundamentally from the original recommendation.

The Commission's Executive Director is responsible for guiding the Commission's recommendations through the legislative process. In that capacity the Executive Director is expected to exercise an initial judgment when faced with a proposed legislative amendment to a Law Commission bill. That initial judgment is to distinguish between amendments that make either "material" or "immaterial" changes to the Law Commission bill. Technical text changes and corrections which do not alter the purpose and function of a bill are examples of immaterial changes.

In the exercise of this initial judgment concerning materiality, the Executive Director will resolve doubts in favor of assuming materiality in order to engage the wider consultation and discussion about the amendment as detailed below. Consultation with either the Commission Chair, Vice Chair or others usually would be a part of the Executive Director's initial decision making process.

If an amendment is immaterial, the Executive Director will continue to guide the amended Law Commission bill as would be the case without amendment. Making clear, however, that the amendment does not carry formal Law Commission approval.

If an amendment is material, the Executive Director will take steps from among those listed below. The steps selected will naturally depend upon the stage of the legislative process in which the amendment is proposed or made.

Generally, early in the Session there is more time for broad-based discussion, reflection and review. Later in the Session faster responses are needed, requiring a more confined and efficient discussion. Regardless of the step chosen, the Executive Director will consult with the Chair of the Commission in order to take such other necessary steps or combinations of steps as may not be contemplated at this writing. The keys are good communication and flexibility in approach.

The hierarchy of steps in managing mid-session amendments is as follows:

1. In consultation with the Commission Chair or Vice-Chair, present the amendment to the full Law Commission for formal consideration and a vote on taking a position on the amendment. Only this first approach would authorize the Executive Director to affirmatively report support or rejection of an amendment "on behalf of the Commission." This approach, however, requires both an assessment of the time available for such action and the nature and scope of the amendment itself. Experience has shown that some amendments, while fairly judged "material," are of lesser scope and effect than others and may therefore be better addressed in a less formal manner.
2. In consultation with the Commission Chair or Vice-Chair, present the amendment to the full Work Group responsible for the Commission's draft at a meeting of the Work Group or informally by email or otherwise where necessary.
3. In consultation with the Commission Chair or Vice-Chair, present the amendment to the responsible Work Group Chair, to the Work Group Reporter, and to any members of the Work Group known to the Executive Director to be most knowledgeable on the subject raised by the amendment.
4. In consultation with the Commission Chair or Vice-Chair, present the amendment to the Work Group Chair, Reporter or other most knowledgeable Work Group member.

Following each of the above actions the Executive Director will carry out the steps next reasonably necessary to implement the guidance obtained from the process. In no case shall the views of any person or group of persons be reported by the Executive Director as the views of the Law Commission unless supported by a vote of the Commission affirming those views.

Memorandum of Understanding: Reminding Workgroup Members to Act on Their Independent Professional Judgment

MEMORANDUM

To: Commissioners of the Oregon Law Commission

Date: November 9, 2001

Re: Memorandum of Understanding: Reminding Work Group Members to Act on Their Independent Professional Judgment

The Oregon Law Commission exists to provide clarification and improvement of Oregon law. ORS 173.315; ORS 173.357. For this purpose, the Commission must rely on knowledgeable committees, known as Work Groups, to pursue the various substantive projects that are the Commission's task. ORS 173.352 (1) provides that the Commission shall determine the membership and organization of the committees and "shall appoint their members." Work groups generally are made up of Commissioners and volunteers who bring either professional expertise to the law reform project or familiarity with community interests that are particularly affected by the project.

The goal of a Commission project is to produce what the Commission, in its professional judgment, determines to be the best feasible improvement in the law, taking into account that different people and groups have divergent views on and interests in the subject matter. This goal is furthered by finding a way for knowledgeable advisors who will express those views and interests to inform the Commission's Work Groups, while leaving the decisions on the substantive issues to the disinterested professional judgment of the regularly appointed members of the Work Group. The work of these committees can only be hampered if some members subordinate their judgment of the public interest to the interests of a particular private party or client. It is recommended that the Commission accept a practice by the Executive Director's office of communicating to Work Group members that they are to speak and vote on the basis of their individual and professional convictions and experience in the exercise of independent judgment.

Other commissions and committees in Oregon and throughout the United States have addressed the issue of membership criteria in this context. Some have promulgated statutes, rules, or policies to require or encourage members to contribute solely on the basis of their personal experience and convictions. For example, Congress passed the Federal Advisory Committee Act in 1972. A section of that statute speaks to membership. 5 U.S.C.A. app.2 § 5 (West 1996). That Act arose out of the growing number of advisory groups in the nation and growing concern that special interests had captured advisory committees, exerting undue influence on public programs. H.R. REP. NO. 1017, 92d Con., *reprinted in* 1972 U.S.C.C.A.N. 3491, 3495; Steven P. Croley & William F. Funk, *The Federal Advisory Committee Act and Good Government*, 14 YALE L. ON REG. 451, 462 (1997). The Act also required advisory committees to keep minutes, including a record of persons present. In short, the goal of the Act was to establish openness and balanced representation but also prevent the surreptitious use of advisory committees to

further the interests of any special interest. H.R. REP. NO. 1017, 92d Con., *reprinted in* 1972 U.S.C.C.A.N. 3491, 3500.

Another example comes from the National Assessment Governing Board, appointed by the Secretary of Education, for the purpose of formulating policy guidelines for the National Assessment; the Board has twenty-five members. 20 USCA § 9011 (West 2000). The statute establishing the Board contains the following provision limiting membership: “The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.” *Id.* at §9011 (b)(3). Still another example is found in ORS 526.225; that Oregon statute authorizes the State Board of Higher Education to appoint a Forest Research Laboratory Advisory Committee composed of fifteen members. Composition of the Committee is to include three members from the public at large, but they may not “have any relationship or pecuniary interest that would interfere with that individual representing the public interest.”

Less formal examples are found in other law reform organizations. The American Law Institute, in its Rules of Council, provides guidelines for membership in the Institute. Rule 9.04, titled Members’ Obligation to Exercise Independent Judgment, was added at the December 1996, meeting of the Council. That Rule communicated that members are to “leave client interests at the door.” Finally, the Louisiana State Law Institute has a philosophical policy statement, dating back to 1940, that encourages “thorough study and research, and full, free and non-partisan discussion.” (John H. Tucker, Address at Louisiana State University on the Philosophy and Purposes of the Louisiana State Law Institute (Mar. 16, 1940)).

Instead of a formal rule or statute to express an ideal that Oregon Law Commission Work Group members should leave their client interests at the door, the Executive Director’s office suggests the Commission accept this Memorandum of Understanding and the following statement:

“To maintain the Oregon Law Commission’s professional non-partisan analysis of legal issues in support of law reform, Commissioners and those individuals appointed by the Commission to serve as Work Group members are expected to exercise independent judgment when working on Oregon Law Commission projects by speaking and voting on the basis of their individual and professional convictions and experience.

Recommendations to and from the Law Commission must be the result of thoughtful deliberation by members dedicated to public service. Therefore, Work Group members are not to subject their individual and professional judgment to representation of client or employer interests when participating in the Work Group’s decisions.”

Unless otherwise directed, the Executive Director’s staff will incorporate the above statement into the Work Group letters of appointment as a means of communicating to Work Group members the Commission’s important mission and expectations.

QUICK FACT SHEET

What does the Oregon Law Commission do?

The Commission assists the legislature in keeping the law up to date. By statute, the Commission will “conduct a continuous substantive law revision program. . .” (ORS 173.315). The Commission assists the legislature in keeping the law up to date by:

- Identifying and selecting law reform projects
- Researching the area of law at issue, including other states’ laws to see how they deal with similar problems
- Communicating with and educating those who may be affected by proposed reforms
- Drafting proposed legislation, comments and reports for legislative consideration

How was the Oregon Law Commission formed?

The 1997 Legislative Assembly adopted legislation creating the Oregon Law Commission (ORS173.315). Legislative appropriations supporting the Commission’s work began July 1, 2000.

How does the work of the Oregon Law Commission compare to the work of other groups who may have ideas about changing Oregon laws?

The Commission identifies and considers needs that are not likely to be advanced by traditional interest groups.

What is the role of the University of Oregon School of Law?

The University of Oregon School of Law houses the Oregon Law Commission supporting its efforts to recommend law reform, revision and improvement to the legislature while providing opportunities for student and faculty involvement in support of the Commission’s work. Professor Kristen Bell is a Commissioner, and professors participate with work groups. The Office of the Director, housed at the University of Oregon School of Law provides, staff support to the Commission and the Commission’s Work Groups. Undergraduate students serve as office assistants, and law students serve as Fellows for the Commission.

Who makes up the Oregon Law Commission?

In creating the Commission, the Legislative Assembly recognized the need for a distinguished body of knowledgeable and respected individuals to undertake law revision projects requiring long term commitment and an impartial approach. The Commissioners include four members appointed by the Senate President and Speaker of the House (at least one sitting Senator and Representative), the Chief Justice of the Oregon Supreme Court (or his or her designee), the Chief Judge of the Court of Appeals, a circuit court judge, the Attorney General (or his or her designee), a Governor's appointee, the deans or representatives from each law school in Oregon and three representatives from the Oregon State Bar. In addition to the fifteen Commissioners, currently over sixty volunteers serve on the Commission’s Work Groups. Once an issue has been selected by the Commission for study and development, a Work Group is established. Work Groups are made up of Commissioners, volunteers selected by the Commission based on their professional areas of expertise, and volunteers selected by the Commission to represent the parts of the community particularly affected by the area of law in question. The expectation is that the

Commission is able to produce the best reform solution possible by drawing on a wide range of experience and interests.

How do people get involved?

To apply for service as a volunteer on a Work Group or to receive electronic Work Group meeting notices, please contact the Office of the Director at (541) 346-3298 or azubko@uoregon.edu.

Current and Past Projects

2025

LC 266 - Limited Liability Corporation Modernization (Introduced)

LC 156 - Municipal and Justice Court Appeals Process (Introduced)

2023

SB 909 - Limited Liability Corporation Act Modernization (In committee upon adjournment)

Municipal and Justice Court Appeals Process (Ongoing)

2021

SB 220 - Remote Attestation (Adopted)

SB 221 - Probate Modernization (Adopted)

SB 765 - Remote Notarization (Adopted)

Limited Liability Corporation Modernization (Ongoing)

Municipal and Justice Court Appeals Process (Ongoing)

2020

HB 4212, Sections 19-32 - Remote Notarization (Adopted)

Limited Liability Corporation Modernization (Ongoing)

Municipal and Justice Court Appeals Process (Ongoing)

2019

HB 3006 - Probate Modernization (Adopted)

HB 3007 - Probate Modernization (Adopted)

HB 3008 - Probate Modernization (Adopted)

Limited Liability Corporation Modernization (Ongoing)

Municipal and Justice Court Appeals Process (Ongoing)

2017/2018

SB 896 - Direct Criminal Appeals (Adopted)

HB 2986 - Probate Modernization (Adopted)

SB 899 – Receivership (Adopted)

Oregon State Capitol Workplace Harassment (Report Submitted to Legislative Leadership)

2016

HB 4102 – Probate Modernization (Adopted w/ Amend.)

HB 4074 – Juvenile Court Records (Adopted w/ Amend.)

2015

HB 2364 – Standing Modernization (Did Not Pass the Full Commission)

HB 2365 – Adoption Review (Adopted w/Amend.)

HB 2366 – Adoption Review (Adopted w/Amend.)

HB 2367 – Uniform Collateral Consequences of Conviction Act (In Committee Upon Adjournment)

SB 379 – Probate Modernization (Adopted w/ Amend.)

2014

SB 1536 – Juvenile Records (Adopted w/Amend.)

2013

SB 592 – Uniform Trust Code (Adopted w/ Amend.)

SB 622 – Juvenile Records (Adopted w/ Amend.)

SB 623 – Adoption Records (Adopted w/ Amend.)

HB 2833 – Uniform Unsworn Foreign Declarations Act (Adopted w/ Amend.)

HB 2834 – Revised Uniform Law on Notarial Acts (Adopted)

HB 2836 – Juvenile Fitness to Proceed (Adopted w/ Amend.)

2012

HB 4035 – U.C.C. Article 9 (Adopted w/ Amend.)

2011

SB 385 – Elective Share – In partnership with the Oregon State Bar (Adopted)

SB 411 – Juvenile Fitness to Proceed (In Committee Upon Adjournment)

SB 815 – Uniform Real Property Transfer on Death Act (Adopted)

SB 867 – Uniform Environmental Covenants Act (In Committee Upon Adjournment)

HB 2541 – Inheritance Tax (Adopted w/ Amend.)

HB 2689 – Juvenile Summons (Adopted)

HB 2708 – Art Consignment (Adopted w/ Amend.)

2010

Interstate Deposition and Discovery Act (Adopted w/ Amend. by the Oregon Council on Court Procedures)

2009

SB 270 – Juvenile Records on Appeal (Adopted w/ Amend.)

SB 512 – Juvenile Records to Schools (Adopted w/ Amend.)

SB 558 – UCC Articles 1 and 7 (Adopted w/ Amend.)

SB 559 – Juvenile Intervenor Cleanup (Adopted)

SB 562 – OLC Enabling Statutes (Adopted)

SB 561 – Choice of Law for Torts (Adopted)

HB 3021 – Emergency Preparedness Liability (Adopted w/ Amend.)

HB 3077 – Elective Share (Adopted w/ Amend.)

HB 3220 – Juvenile Aid & Assist (In Committee Upon Adjournment)

2007

SB 320 – Juv. Code Revision: Fitness to Proceed – (In Committee Upon Adjournment)

SB 322 – Judgments: Cleanup (Adopted w/ Amend.)

SB 325 – Juv. Code Revision: Personal Appearance (Adopted w/ Amend.)

SB 328 – Juv. Code Revision: Juvenile PSRB (Adopted w/ Amend.)
SB 494 – SB 498 – Government Ethics Revision (Adopted in Part)
SB 499 – Judgments: Summary Determination (In Committee Upon Adjournment)
SB 501 – Judgments: Clarifies Terminology (Adopted w/ Amend.)
HB 2381 – Elective Share (In Committee Upon Adjournment)
HB 2382 – Uniform Parentage Act Revision (Adopted w/ Amend.)
HB 2384 – Auto Insurance: Permissive Users (Adopted w/ Amend.)
HB 2385 – Auto Insurance Cleanup (Adopted w/ Amend.)
HB 2594 – HB 2598 – Government Ethics Revision (Adopted in Part)
HB 3265 – Government Borrowings (Adopted w/ Amend.)

2005

HB 2268 – Eminent Domain: Condemnation Procedures (Adopted w/ Amend.)
HB 2269 – Eminent Domain: Public Condemnation (Adopted w/ Amend.)
HB 2275 – Administrative Child Support (Adopted)
HB 2276 – Codifies the Oregon Supplemental Income Program (Adopted w/ Amend.)
HB 2359 – Judgments/Enforcement of Judgments: Cleanup (Adopted w/ Amend.)
SB 229 – Juv. Code Revision: Dependency Proceedings (Adopted w/ Amend.)
SB 230 – Juv. Code Revision: Guardian *Ad Litem* (Adopted w/ Amend.)
SB 231 – Juv. Code Revision: Juvenile Records (Adopted w/ Amend.)
SB 232 – Juv. Code Revision: Delinquency Disposition (Adopted w/ Amend.)
SB 233 – Juv. Code Revision: OYA (Adopted w/ Amend.)
SB 234 – Juv. Code Revision: Putative Father (Adopted w/ Amend.)
SB 235 – Public Accommodations (Adopted w/ Amend.)
SB 236 – Statute of Limitations for Civil Actions (Public Accommodations) (Adopted)
SB 237 – Statute of Limitations for Civil Actions (Workplace Safety) (Adopted w/
Amend.)
SB 238 – Remedies for Unlawful Discrimination – (Adopted w/ Amend.)
SB 239 – Civil Rights: List of Protected Classes – (In Committee Upon Adjournment)
SB 920 – Judicial Sales – (Adopted w/ Amend.)
SB 921 – Summons: Adoption (Adopted w/ Amend.)
SB 922 – Auto Insurance: Permissive Users (In Committee Upon Adjournment)
SB 923 – Auto Insurance: Underinsured (Adopted w/ Amendments)
SB 924 – Auto Insurance: Stolen Vehicles (Adopted w/ Amendments)
SB 925 – Auto Insurance: Cleanup of ORS 742.504 (Adopted)
SB 926 – Auto Insurance: Uninsured (Adopted w/ Amend.)

2003

SB 67 – Juvenile Code Revision: Telephone Testimony (Adopted)
SB 68 – Juv. Code Revision: Reference Corrections (Adopted)
SB 69 – Juv. Code Revision: Word Usage Corrections to ORS 419A (Adopted w/
Amend.)
SB 70 – Juv. Code Revision: Juvenile Court Guardianships (Adopted w/ Amend.)
SB 71 – Juv. Code Revision: Service by Mail (Adopted)
SB 72 – Juv. Code Revision: Intervenor/Rights of Limited Participation (Adopted w/
Amend.)
SB 887 – Juvenile Psychiatric Security Review Board (In Committee Upon
Adjournment)

HB 2272 – Juv. Code: Summons (Adopted w/ Amend.)
HB 2274 – Judgments/Enforcement of Judgments: Garnishments (Adopted w/ Amend.)
HB 2275 – Civil Rights: Age (Adopted w/ Amend.)
HB 2276 – Civil Rights: Remedies for Workers’ Rights (Adopted w/ Amend.)
HB 2277 – Admin. and Judicial Child Support Orders (Adopted)
HB 2278 – Public Body: Special Districts (Adopted w/ Amend.)
HB 2284 – Saving Statute (Adopted)
HB 2645 – Admin. and Judicial Child Support Orders (Adopted)
HB 2646 – Judgments/Enforcement of Judgments: Judgments (Adopted w/ Amend.)
HB 3027 – Judicial Review of Govt. Actions (In Committee Upon Adjournment)
HB 3370 – Eminent Domain: Consolidation (Adopted w/ Amend.)
HB 3371 – Eminent Domain: Pre-Trial Offer (Adopted)
HB 3372 – Eminent Domain – Precondemnation Procedures (Adopted w/ Amend.)

2001

HB 2352 – Civil Rights Statute Organization (Adopted w/ Amendments)
HB 2355 – Juvenile Code Revision: Adjudication (Adopted w/ Amend.)
HB 2386 – Garnishments (Adopted w/ Amend.)
HB 2388 – Juv. Code Revision: Termination of Parental Rights (Adopted w/ Amend.)
HB 2391 – Juv. Code Revision: Termination of Parental Rights (Adopted w/ Amend.)
HB 2392 – Child Support Revision (Adopted)
HB 2414 – Choice-of-law for Oregon Contracts (Adopted w/ Amend.)
HB 2425 – Uniform Definitions for ORS (Adopted)
HB 2611 – Created Oregon Rules of Juvenile Court Procedure (Adopted w/ Amend.)

1999

HB 2277 – Repeal of ORS 161.062 (Adopted)
HB 2278 – Judicial Review of Prison Siting Decisions (Adopted)
HB 2279 – Repeal of ORS Chapter 239 (Adopted w/ Amendments)
SB 20 – Violation Procedures (Adopted)