

House Joint Resolution 27

Sponsored by Representative KENNEMER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Proposes amendment to Oregon Constitution to require at least two-thirds majority vote of all members elected to each house of Legislative Assembly to pass bills or adopt joint resolutions.

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

JOINT RESOLUTION

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

PARAGRAPH 1. The Constitution of the State of Oregon is amended by amending section 25, Article IV, sections 3, 4 and 6, Article X-A, section 15, Article XI, and section 4, Article XV, such sections to read:

Sec. 25. (1) *[Except as otherwise provided in subsection (2) of this section, a]* **A two-thirds** majority of all the members elected to each House shall be necessary to pass every bill or Joint resolution.

[(2) Three-fifths of all members elected to each House shall be necessary to pass bills for raising revenue.]

[(3)] **(2)** All bills, and Joint resolutions passed, shall be signed by the presiding officers of the respective houses.

Sec. 3. If the Governor declares that a catastrophic disaster has occurred:

(1) Notwithstanding sections 10 and 10a, Article IV of this Constitution, the Legislative Assembly may convene in a place other than the Capitol of the State if the Governor or the Legislative Assembly determines that the Capitol is inaccessible.

(2) Notwithstanding section 12, Article IV of this Constitution, during any period of time when members of the Legislative Assembly are unable to compel the attendance of two-thirds of the members of each house because the catastrophic disaster has made it impossible to locate members or impossible for them to attend, two-thirds of the members of each house who are able to attend shall constitute a quorum to do business.

(3) In a session of the Legislative Assembly that is called because of the catastrophic disaster or that was imminent or ongoing at the time the catastrophic disaster was declared, the number of members of each house that constitutes a quorum under subsection (2) of this section may suspend the rule regarding reading of bills under the same circumstances and in the same manner that two-thirds of the members may suspend the rule under section 19, Article IV of this Constitution.

(4) Notwithstanding section 25, Article IV of this Constitution, during any period of time when members of the Legislative Assembly are unable to compel the attendance of two-thirds of the members of each house because the catastrophic disaster has made it impossible to locate members or impossible for them to attend, *[three-fifths]* **two-thirds** of the members of each house who are able

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 to attend a session described in subsection (3) of this section shall be necessary to pass every bill
2 or joint resolution.

3 (5) Notwithstanding section 1a, Article IX of this Constitution, the Legislative Assembly may
4 declare an emergency in any bill regulating taxation or exemption, including but not limited to any
5 bill that decreases or suspends taxes or postpones the due date of taxes, if the Legislative Assembly
6 determines that the enactment of the bill is necessary to provide an adequate response to the cat-
7 astrophic disaster.

8 **Sec. 4.** (1) If the Governor declares that a catastrophic disaster has occurred:

9 (a) The Legislative Assembly may enact laws authorizing the use of revenue described in section
10 3a, Article IX of this Constitution, for purposes other than those described in that section.

11 (b) The Legislative Assembly may, by a vote of the number of members of each house that con-
12 stitutes a quorum under subsection (2) of section 3 of this Article, appropriate moneys that would
13 otherwise be returned to taxpayers under section 14, Article IX of this Constitution, to state agen-
14 cies for the purpose of responding to the catastrophic disaster.

15 (c) Notwithstanding section 7, Article XI of this Constitution, the Legislative Assembly may lend
16 the credit of the state or create debts or liabilities in an amount the Legislative Assembly considers
17 necessary to provide an adequate response to the catastrophic disaster.

18 (d) The provisions of section 15, Article XI of this Constitution, do not apply to any law that is
19 approved by [*three-fifths*] **two-thirds** of the members of each house who are able to attend a session
20 described in subsection (3) of section 3 of this Article.

21 (e) The Legislative Assembly may take action described in subsection (6) of section 15, Article
22 XI of this Constitution, upon approval by [*three-fifths*] **two-thirds** of the members of each house who
23 are able to attend a session described in subsection (3) of section 3 of this Article.

24 (f) Notwithstanding section 4, Article XV of this Constitution, the Legislative Assembly may
25 allocate proceeds from the State Lottery for any purpose and in any ratio the Legislative Assembly
26 determines necessary to provide an adequate response to the catastrophic disaster.

27 (2) Nothing in this section overrides or otherwise affects the provisions of section 15b, Article
28 V of this Constitution.

29 **Sec. 6.** (1) Except as provided in subsection (2) of this section, the provisions of sections 1 to
30 5 of this Article, once invoked, shall cease to be operative not later than 30 days following the date
31 the Governor invoked the provisions of sections 1 to 5 of this Article, or on an earlier date recom-
32 mended by the Governor and determined by the Legislative Assembly. The Governor may not re-
33 commend a date under this subsection unless the Governor finds and declares that the immediate
34 response to the catastrophic disaster has ended.

35 (2) Prior to expiration of the 30-day limit established in subsection (1) of this section, the Leg-
36 islative Assembly may extend the operation of sections 1 to 5 of this Article beyond the 30-day limit
37 upon the approval of [*three-fifths*] **two-thirds** of the members of each house who are able to attend
38 a session described in subsection (3) of section 3 of this Article.

39 (3) The determination by the Legislative Assembly required by subsection (1) of this section or
40 an extension described in subsection (2) of this section shall take the form of a bill. A bill that ex-
41 tends the operation of sections 1 to 5 of this Article shall establish a date upon which the provisions
42 of sections 1 to 5 of this Article shall cease to be operative. A bill described in this subsection shall
43 be presented to the Governor for action in accordance with section 15b, Article V of this Constitu-
44 tion.

45 (4) A bill described in subsection (3) of this section may include any provisions the Legislative

1 Assembly considers necessary to provide an orderly transition to compliance with the requirements
2 of this Constitution that have been overridden under this Article because of the Governor's decla-
3 ration of a catastrophic disaster.

4 (5) The Governor may not invoke the provisions of sections 1 to 5 of this Article more than one
5 time with respect to the same catastrophic disaster. A determination under subsection (1) of this
6 section or an extension described in subsection (2) of this section that establishes a date upon which
7 the provisions of sections 1 to 5 of this Article shall cease to be operative does not prevent invoking
8 the provisions of sections 1 to 5 of this Article in response to a new declaration by the Governor
9 that a different catastrophic disaster has occurred.

10 **Sec. 15.** (1) Except as provided in subsection (7) of this section, when the Legislative Assembly
11 or any state agency requires any local government to establish a new program or provide an in-
12 creased level of service for an existing program, the State of Oregon shall appropriate and allocate
13 to the local government moneys sufficient to pay the ongoing, usual and reasonable costs of per-
14 forming the mandated service or activity.

15 (2) As used in this section:

16 (a) "Enterprise activity" means a program under which a local government sells products or
17 services in competition with a nongovernment entity.

18 (b) "Local government" means a city, county, municipal corporation or municipal utility oper-
19 ated by a board or commission.

20 (c) "Program" means a program or project imposed by enactment of the Legislative Assembly
21 or by rule or order of a state agency under which a local government must provide administrative,
22 financial, social, health or other specified services to persons, government agencies or to the public
23 generally.

24 (d) "Usual and reasonable costs" means those costs incurred by the affected local governments
25 for a specific program using generally accepted methods of service delivery and administrative
26 practice.

27 (3) A local government is not required to comply with any state law or administrative rule or
28 order enacted or adopted after January 1, 1997, that requires the expenditure of money by the local
29 government for a new program or increased level of service for an existing program until the state
30 appropriates and allocates to the local government reimbursement for any costs incurred to carry
31 out the law, rule or order and unless the Legislative Assembly provides, by appropriation, re-
32 imbursement in each succeeding year for such costs. However, a local government may refuse to
33 comply with a state law or administrative rule or order under this subsection only if the amount
34 appropriated and allocated to the local government by the Legislative Assembly for a program in a
35 fiscal year:

36 (a) Is less than 95 percent of the usual and reasonable costs incurred by the local government
37 in conducting the program at the same level of service in the preceding fiscal year; or

38 (b) Requires the local government to spend for the program, in addition to the amount appro-
39 priated and allocated by the Legislative Assembly, an amount that exceeds one-hundredth of one
40 percent of the annual budget adopted by the governing body of the local government for that fiscal
41 year.

42 (4) When a local government determines that a program is a program for which moneys are re-
43 quired to be appropriated and allocated under subsection (1) of this section, if the local government
44 expended moneys to conduct the program and was not reimbursed under this section for the usual
45 and reasonable costs of the program, the local government may submit the issue of reimbursement

1 to nonbinding arbitration by a panel of three arbitrators. The panel shall consist of one represen-
2 tative from the Oregon Department of Administrative Services, the League of Oregon Cities and the
3 Association of Oregon Counties. The panel shall determine whether the costs incurred by the local
4 government are required to be reimbursed under this section and the amount of reimbursement. The
5 decision of the arbitration panel is not binding upon the parties and may not be enforced by any
6 court in this state.

7 (5) In any legal proceeding or arbitration proceeding under this section, the local government
8 shall bear the burden of proving by a preponderance of the evidence that moneys appropriated by
9 the Legislative Assembly are not sufficient to reimburse the local government for the usual and
10 reasonable costs of a program.

11 (6) Except upon approval by [*three-fifths*] **two-thirds** of the membership of each house of the
12 Legislative Assembly, the Legislative Assembly shall not enact, amend or repeal any law if the an-
13 ticipated effect of the action is to reduce the amount of state revenues derived from a specific state
14 tax and distributed to local governments as an aggregate during the distribution period for such
15 revenues immediately preceding January 1, 1997.

16 (7) This section shall not apply to:

17 (a) Any law that is approved by [*three-fifths*] **two-thirds** of the membership of each house of the
18 Legislative Assembly.

19 (b) Any costs resulting from a law creating or changing the definition of a crime or a law es-
20 tablishing sentences for conviction of a crime.

21 (c) An existing program as enacted by legislation prior to January 1, 1997, except for legislation
22 withdrawing state funds for programs required prior to January 1, 1997, unless the program is made
23 optional.

24 (d) A new program or an increased level of program services established pursuant to action of
25 the Federal Government so long as the program or increased level of program services imposes costs
26 on local governments that are no greater than the usual and reasonable costs to local governments
27 resulting from compliance with the minimum program standards required under federal law or reg-
28 ulations.

29 (e) Any requirement imposed by the judicial branch of government.

30 (f) Legislation enacted or approved by electors in this state under the initiative and referendum
31 powers reserved to the people under section 1, Article IV of this Constitution.

32 (g) Programs that are intended to inform citizens about the activities of local governments.

33 (8) When a local government is not required under subsection (3) of this section to comply with
34 a state law or administrative rule or order relating to an enterprise activity, if a nongovernment
35 entity competes with the local government by selling products or services that are similar to the
36 products and services sold under the enterprise activity, the nongovernment entity is not required
37 to comply with the state law or administrative rule or order relating to that enterprise activity.

38 (9) Nothing in this section shall give rise to a claim by a private person against the State of
39 Oregon based on the establishment of a new program or an increased level of service for an existing
40 program without sufficient appropriation and allocation of funds to pay the ongoing, usual and rea-
41 sonable costs of performing the mandated service or activity.

42 (10) Subsection (4) of this section does not apply to a local government when the local govern-
43 ment is voluntarily providing a program four years after the effective date of the enactment, rule
44 or order that imposed the program.

45 (11) In lieu of appropriating and allocating funds under this section, the Legislative Assembly

1 may identify and direct the imposition of a fee or charge to be used by a local government to re-
2 cover the actual cost of the program.

3 **Sec. 4.** (1) Except as provided in subsections (2), (3), (4), (8) and (9) of this section, lotteries and
4 the sale of lottery tickets, for any purpose whatever, are prohibited, and the Legislative Assembly
5 shall prevent the same by penal laws.

6 (2) The Legislative Assembly may provide for the establishment, operation, and regulation of
7 raffles and the lottery commonly known as bingo or lotto by charitable, fraternal, or religious or-
8 ganizations. As used in this section, charitable, fraternal or religious organization means such or-
9 ganizations or foundations as defined by law because of their charitable, fraternal, or religious
10 purposes. The regulations shall define eligible organizations or foundations, and may prescribe the
11 frequency of raffles, bingo or lotto, set a maximum monetary limit for prizes and require a statement
12 of the odds on winning a prize. The Legislative Assembly shall vest the regulatory authority in any
13 appropriate state agency.

14 (3) There is hereby created the State Lottery Commission which shall establish and operate a
15 State Lottery. All proceeds from the State Lottery, including interest, but excluding costs of ad-
16 ministration and payment of prizes, shall be used for any of the following purposes: creating jobs,
17 furthering economic development, financing public education in Oregon or restoring and protecting
18 Oregon's parks, beaches, watersheds and native fish and wildlife.

19 (4)(a) The State Lottery Commission shall be comprised of five members appointed by the Gov-
20 ernor and confirmed by the Senate who shall serve at the pleasure of the Governor. At least one
21 of the Commissioners shall have a minimum of five years experience in law enforcement and at least
22 one of the Commissioners shall be a certified public accountant. The Commission is empowered to
23 promulgate rules related to the procedures of the Commission and the operation of the State Lot-
24 tery. Such rules and any statutes enacted to further implement this article shall insure the integrity,
25 security, honesty, and fairness of the Lottery. The Commission shall have such additional powers
26 and duties as may be provided by law.

27 (b) The Governor shall appoint a Director subject to confirmation by the Senate who shall serve
28 at the pleasure of the Governor. The Director shall be qualified by training and experience to direct
29 the operations of a state-operated lottery. The Director shall be responsible for managing the affairs
30 of the Commission. The Director may appoint and prescribe the duties of no more than four Assist-
31 ant Directors as the Director deems necessary. One of the Assistant Directors shall be responsible
32 for a security division to assure security, integrity, honesty, and fairness in the operations and ad-
33 ministration of the State Lottery. To fulfill these responsibilities, the Assistant Director for security
34 shall be qualified by training and experience, including at least five years of law enforcement ex-
35 perience, and knowledge and experience in computer security.

36 (c) The Director shall implement and operate a State Lottery pursuant to the rules, and under
37 the guidance, of the Commission. The State Lottery may operate any game procedure authorized
38 by the commission, except parimutuel racing, social games, and the games commonly known in
39 Oregon as bingo or lotto, whereby prizes are distributed using any existing or future methods among
40 adult persons who have paid for tickets or shares in that game; provided that, in lottery games
41 utilizing computer terminals or other devices, no coins or currency shall ever be dispensed directly
42 to players from such computer terminals or devices.

43 (d) There is hereby created within the General Fund the Oregon State Lottery Fund which is
44 continuously appropriated for the purpose of administering and operating the Commission and the
45 State Lottery. The State Lottery shall operate as a self-supporting revenue-raising agency of state

1 government and no appropriations, loans, or other transfers of state funds shall be made to it. The
 2 State Lottery shall pay all prizes and all of its expenses out of the revenues it receives from the sale
 3 of tickets or shares to the public and turnover the net proceeds therefrom to a fund to be estab-
 4 lished by the Legislative Assembly from which the Legislative Assembly shall make appropriations
 5 for the benefit of any of the following public purposes: creating jobs, furthering economic develop-
 6 ment, financing public education in Oregon or restoring and protecting Oregon's parks, beaches,
 7 watersheds and native fish and wildlife. Effective July 1, 1997, 15% of the net proceeds from the
 8 State Lottery shall be deposited, from the fund created by the Legislative Assembly under this par-
 9 agraph, in an education stability fund. Effective July 1, 2003, 18% of the net proceeds from the State
 10 Lottery shall be deposited, from the fund created by the Legislative Assembly under this paragraph,
 11 in an education stability fund. Earnings on moneys in the education stability fund shall be retained
 12 in the fund or expended for the public purpose of financing public education in Oregon as provided
 13 by law. Except as provided in subsection (6) of this section, moneys in the education stability fund
 14 shall be invested as provided by law and shall not be subject to the limitations of section 6, Article
 15 XI of this Constitution. The Legislative Assembly may appropriate other moneys or revenue to the
 16 education stability fund. The Legislative Assembly shall appropriate amounts sufficient to pay lot-
 17 tery bonds before appropriating the net proceeds from the State Lottery for any other purpose. At
 18 least 84% of the total annual revenues from the sale of all lottery tickets or shares shall be returned
 19 to the public in the form of prizes and net revenues benefiting the public purpose.

20 (5) Notwithstanding paragraph (d) of subsection (4) of this section, the amount in the education
 21 stability fund created under paragraph (d) of subsection (4) of this section may not exceed an amount
 22 that is equal to five percent of the amount that was accrued as revenues in the state's General Fund
 23 during the prior biennium. If the amount in the education stability fund exceeds five percent of the
 24 amount that was accrued as revenues in the state's General Fund during the prior biennium:

25 (a) Additional net proceeds from the State Lottery may not be deposited in the education sta-
 26 bility fund until the amount in the education stability fund is reduced to less than five percent of
 27 the amount that was accrued as revenues in the state's General Fund during the prior biennium;
 28 and

29 (b) Fifteen percent of the net proceeds from the State Lottery shall be deposited into the school
 30 capital matching fund created under section 4, Article XI-P of this Constitution.

31 (6) The Legislative Assembly may by law appropriate, allocate or transfer any portion of the
 32 principal of the education stability fund created under paragraph (d) of subsection (4) of this section
 33 for expenditure on public education if:

34 (a) The proposed appropriation, allocation or transfer is approved by [*three-fifths*] **two-thirds** of
 35 the members serving in each house of the Legislative Assembly and the Legislative Assembly finds
 36 one of the following:

37 (A) That the last quarterly economic and revenue forecast for a biennium indicates that moneys
 38 available to the state's General Fund for the next biennium will be at least three percent less than
 39 appropriations from the state's General Fund for the current biennium;

40 (B) That there has been a decline for two or more consecutive quarters in the last 12 months
 41 in seasonally adjusted nonfarm payroll employment; or

42 (C) That a quarterly economic and revenue forecast projects that revenues in the state's General
 43 Fund in the current biennium will be at least two percent below what the revenues were projected
 44 to be in the revenue forecast on which the legislatively adopted budget for the current biennium
 45 was based; or

1 (b) The proposed appropriation, allocation or transfer is approved by [*three-fifths*] **two-thirds** of
2 the members serving in each house of the Legislative Assembly and the Governor declares an
3 emergency.

4 (7) The Legislative Assembly may by law prescribe the procedures to be used and identify the
5 persons required to make the forecasts described in subsection (6) of this section.

6 (8) Effective July 1, 1999, 15% of the net proceeds from the State Lottery shall be deposited in
7 a parks and natural resources fund created by the Legislative Assembly. Of the moneys in the parks
8 and natural resources fund, 50% shall be deposited in a parks subaccount and distributed for the
9 public purposes of financing the protection, repair, operation, and creation of state, regional and
10 local public parks, ocean shore and public beach access areas, historic sites and recreation areas,
11 and 50% shall be deposited in a natural resources subaccount and distributed for the public pur-
12 poses of financing the restoration and protection of native fish and wildlife, watersheds and water
13 quality in Oregon. The Legislative Assembly shall not limit expenditures from the parks and natural
14 resources fund, or from the parks or natural resources subaccounts. The Legislative Assembly may
15 appropriate other moneys or revenue to the parks and natural resources fund.

16 (9) Only one State Lottery operation shall be permitted in the State.

17 (10) The Legislative Assembly has no power to authorize, and shall prohibit, casinos from oper-
18 ation in the State of Oregon.

19
20 **PARAGRAPH 2. The amendment proposed by this resolution shall be submitted to the**
21 **people for their approval or rejection at the next regular general election held throughout**
22 **this state.**