

Senate Bill 854

Sponsored by Senator FREDERICK, Representatives EVANS, MCLAIN

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**.

Changes composition of governing board for public universities. Adds organizations Governor must elicit recommendations from, or considerations Governor must make, prior to appointing members of governing board.

Requires each member of governing board to have official electronic mail address that is publicly available.

Requires governing board to make designated times available to present before board for faculty, nonfaculty staff and students and for organizations or unions affiliated with faculty, nonfaculty staff or students.

Requires faculty member, nonfaculty staff member and enrolled student to be included in search committee for president of public university.

Requires governing board to conduct comprehensive evaluation of president of public university at least once every two years.

Prohibits secretary of governing board from also being member of administration of public university.

Changes composition of Higher Education Coordinating Commission.

Requires that any decision by public university to eliminate major program or minor program constitutes significant change that must be approved by commission.

Requires commission to establish process to enable any employee or enrolled student of public university to appeal to commission any decision made by governing board.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to higher education governance; creating new provisions; amending ORS 350.050, 352.076,
3 352.089 and 352.096; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 352.076 is amended to read:

6 352.076. (1) A governing board for a public university must be formed and maintained as pro-
7 vided in this section.

8 (2)(a)(A) Except as provided in subsection (3) of this section, the Governor shall appoint all of
9 the 11 to 15 members of the governing board, subject to confirmation by the Senate in the manner
10 provided in ORS 171.562 and 171.565.

11 **(B) In appointing members to the governing board, the Governor shall consider whether**
12 **each candidate for appointment is an alumnus of the public university and whether appoint-**
13 **ing an alumnus of the public university would be beneficial.**

14 **(C) For each appointment made under paragraph (b) or (c) of this subsection, the Gov-**
15 **ernor shall elicit recommendations from the applicable official student, faculty and nonfac-**
16 **ulty staff organizations at the public university, with the applicable organization**
17 **recommending to the Governor between one and four candidates for each position.**

18 (b) The governing board must include **two people who are students enrolled at the univer-**
19 **sity. The students shall be voting members of the board** [*one person who is a student enrolled*
20 *at the university. The student shall be a voting member of the board*].

21 (c) The governing board must include [*one person who is a member*] **two people who are**

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 **members** of the faculty of the university and [*one person who is a member*] **two people who are**
 2 **members** of the nonfaculty staff of the university. **Individuals appointed under this paragraph**
 3 **shall be voting members of the governing board** [*For each appointment made under this para-*
 4 *graph, the Governor may appoint the person as either a voting or nonvoting member of the governing*
 5 *board*].

6 (3) The president of the university shall be an ex officio nonvoting member of the governing
 7 board.

8 (4)(a) Except as provided in paragraph (b) of this subsection, the term of office for each ap-
 9 pointed member of the governing board is four years.

10 (b) The term of office of each student, faculty and nonfaculty staff member of the governing
 11 board is two years.

12 (c) A member of the governing board may not be appointed to serve more than two consecutive
 13 full terms.

14 (d) The Governor may remove any appointed member of the governing board at any time for
 15 cause, after notice and public hearing, but may not remove more than three members within a period
 16 of four years, unless it is for corrupt conduct in office.

17 (e) Vacancies shall be filled by appointment by the Governor for the remainder of the unexpired
 18 term.

19 (5) The faculty and nonfaculty staff members of the governing board may not participate in any
 20 discussions or action by the board or attend any executive session of the board involving collective
 21 bargaining issues that affect faculty or nonfaculty staff at the university.

22 (6) The governing board shall select one of its members as chairperson and another as vice
 23 chairperson for such terms and with duties and powers as the board considers necessary for the
 24 performance of the functions of those offices. The governing board shall adopt bylaws concerning
 25 how a quorum is constituted and when a quorum is necessary.

26 **(7) Each member of the governing board must have an official electronic mail address**
 27 **that is publicly available and posted on the website of the public university.**

28 [(7)] (8) The governing board shall meet at least four times per year, and may meet at the call
 29 of the chairperson or a majority of the voting members of the board. **At each meeting, the gov-**
 30 **erning board shall:**

31 **(a) Allow a representative from official student, faculty and nonfaculty staff organiza-**
 32 **tions to each make a presentation or report to the board;**

33 **(b) Allow faculty and nonfaculty staff union representatives to each make a presentation**
 34 **or report to the board; and**

35 **(c) Establish a designated time at which members of the faculty, nonfaculty staff and**
 36 **student body may comment on any issue before the board.**

37 **SECTION 2.** ORS 352.096 is amended to read:

38 352.096. (1)(a) In consultation with the Governor, or the Governor's designee, the governing
 39 board of a public university listed in ORS 352.002 shall appoint and employ a president of the uni-
 40 versity.

41 (b) The governing board shall prescribe the president's compensation and terms and conditions
 42 of employment.

43 (2) The president of a public university listed in ORS 352.002 is the president of the faculty. The
 44 president is also the executive and governing officer of the university, except as otherwise provided
 45 by statute or action of the governing board. Subject to the supervision of the governing board, the

1 president of the university has authority to direct the affairs of the university.

2 (3) Except in the case of an interim or acting president, the hiring committee for the president
3 of a public university listed in ORS 352.002 shall:

4 (a) **Be formed by the governing board of the public university; and**

5 (b) Include representatives of the university community, **including at least one faculty mem-**
6 **ber, one member of the nonfaculty staff and one enrolled student**, and at least one other
7 president of a public university based in Oregon.

8 (4) **At least once each biennium, the governing board of a public university listed in ORS**
9 **352.002 shall conduct a comprehensive evaluation of the performance of the president of the**
10 **public university. The governing board shall ensure that:**

11 (a) **The evaluation is finalized in a report that is provided to the Governor and the Higher**
12 **Education Coordinating Commission; and**

13 (b) **The report described in paragraph (a) of this subsection includes comments on the**
14 **performance of the president of the public university by the official student, faculty and**
15 **nonfaculty staff organizations at the public university.**

16 [(4)] (5) The governing board of a public university listed in ORS 352.002 is responsible for the
17 reappointment or removal of the president of the university.

18 [(5)] (6)(a) A public university listed in ORS 352.002 may appoint and employ any instructional,
19 administrative, professional, trade, occupational and other personnel as are necessary or appropriate
20 and establish their compensation and terms and conditions of employment, subject to the limitations
21 set forth in ORS 352.124 (1) and (2).

22 (b) **Notwithstanding paragraph (a) of this subsection, if the public university or governing**
23 **board hires or appoints a secretary to staff or advise the governing board, the board secre-**
24 **tary may not also be employed as a member of the administration of the public university.**

25 **SECTION 3.** ORS 350.050 is amended to read:

26 350.050. (1) There is established a Higher Education Coordinating Commission, consisting of
27 *[nine voting]* **16** members appointed by the Governor.

28 (2) The Governor shall appoint:

29 (a) **One undergraduate student at a public university listed in ORS 352.002;**

30 (b) **One graduate student at a public university listed in ORS 352.002;**

31 (c) **One faculty member at a public university listed in ORS 352.002 (1) to (3);**

32 (d) **One faculty member at a public university listed in ORS 352.002 (4) to (7);**

33 (e) **One student at a community college in this state;**

34 (f) **One faculty member at a community college in this state;**

35 (g) **One nonfaculty member of the staff from either a public university listed in ORS**
36 **352.002 or a community college in this state;**

37 [(a)] (h) One member from each of the five congressional districts in this state; and

38 [(b)] (i) Four members of the general public.

39 (3) *[The Governor shall also appoint five nonvoting members to the commission.]* The Governor
40 shall elicit recommendations for appointments made under **subsection (2)(a) to (g) of this section**
41 *[this subsection]* from official student, faculty, *[and]* nonfaculty staff **and alumni** organizations at
42 community colleges and public universities listed in ORS 352.002. *[The five nonvoting members of the*
43 *commission shall consist of:]*

44 [(a)] *One student at a public university listed in ORS 352.002;*

45 [(b)] *One faculty member at a public university listed in ORS 352.002;*

1 *[(c) One student at a community college in this state;]*

2 *[(d) One faculty member at a community college in this state; and]*

3 *[(e) One nonfaculty member of the staff from either a public university listed in ORS 352.002 or a*
4 *community college.]*

5 (4) The term of office of each *[voting]* member **appointed under subsection (2)(h) and (i) of**
6 **this section** is four years and the term of office for each *[nonvoting]* member **appointed under**
7 **subsection (2)(a) to (g) of this section** is two years. A member serves at the pleasure of the
8 Governor. Before the expiration of the term of a member, the Governor shall appoint a successor
9 whose term begins on July 1 next following. A member is eligible for reappointment. If there is a
10 vacancy for any cause, the Governor shall make an appointment to become immediately effective for
11 the unexpired term.

12 (5) The Governor may at any time, for cause, remove any member of the board that the Gover-
13 nor has appointed, after notice and public hearing, but not more than three members shall be re-
14 moved within a period of four years, unless it is for corrupt conduct in office.

15 (6) The appointment of *[voting]* members of the commission is subject to confirmation by the
16 Senate in the manner prescribed in ORS 171.562 and 171.565.

17 (7) A member of the commission is entitled to compensation and expenses as provided in ORS
18 292.495.

19 **SECTION 4.** ORS 352.089 is amended to read:

20 352.089. (1) A public university listed in ORS 352.002 shall adopt a mission statement for the
21 university, and shall forward the statement to the Higher Education Coordinating Commission.

22 (2) A public university listed in ORS 352.002 shall submit any significant change in the
23 university's academic programs to the Higher Education Coordinating Commission. The commission
24 shall establish a process for reviewing the significant program change for approval. The commission
25 shall establish, by rule, what constitutes a significant change to a university's academic program.
26 **Rules adopted under this subsection must specify that any decision by a public university to**
27 **eliminate an existing major course of study or a minor course of study constitutes a signif-**
28 **icant change in the university's academic programs.** The commission shall further ensure that
29 approved programs:

30 (a) Are consistent with the mission statement of the university;

31 (b) Do not unnecessarily duplicate academic programs offered by Oregon's other public univer-
32 sities;

33 (c) Are not located in a geographic area that will cause undue hardship to Oregon's other public
34 universities; and

35 (d) Are allocated among Oregon's public universities to maximize the achievement of statewide
36 needs and requirements.

37 (3)(a) Pursuant to ORS 350.090, on or before September 1 of each even-numbered year, the
38 Higher Education Coordinating Commission shall submit a consolidated funding request to the
39 Governor on behalf of all public universities listed in ORS 352.002.

40 (b) The Governor's budget may include funding requests from public universities.

41 (4) As part of a funding request submitted under subsection (3) of this section, a public univer-
42 sity listed in ORS 352.002 may request, and appropriations may include but are not limited to,
43 funding for education and general operations, statewide public services, state-funded debt service,
44 capital improvements, deferred maintenance, special initiatives and investments or any other pur-
45 pose authorized by ORS 350.075 (3)(e). Any moneys appropriated to pay debt service for state bonds

1 must be held by the State Treasurer pursuant to an agreement entered into by the State Treasurer
2 and a public university under ORS 352.135 (2).

3 (5) A public university listed in ORS 352.002 that wishes to request the issuance of state bonds,
4 including a public university that elects to remain eligible to receive proceeds of state bonds under
5 ORS 352.402, must make a request to this effect to the Higher Education Coordinating Commission.
6 The commission shall establish a process for reviewing the request to issue state bonds. The com-
7 mission shall decide whether, and in what manner, to make a request for the issuance of state bonds
8 to the Legislative Assembly.

9 (6)(a) Each public university listed in ORS 352.002 shall respond to a request for data from the
10 Legislative Assembly or other state body by submitting the requested information to the Higher
11 Education Coordinating Commission. The commission shall consolidate the data received from public
12 universities. The commission shall be responsible for providing the data to the Legislative Assembly
13 or other requesting entity.

14 (b) As used in this subsection, “data” means any information that, as of August 14, 2013, is
15 collected by the Higher Education Coordinating Commission from each university and reported to
16 the Legislative Assembly or any other state entity, including but not limited to retention and grad-
17 uation rates and demographic information on students.

18 **SECTION 5. Section 6 of this 2021 Act is added to and made a part of ORS 352.025 to**
19 **352.146.**

20 **SECTION 6. Notwithstanding ORS 352.087 or any other provision of law:**

21 **(1) The Higher Education Coordinating Commission shall by rule establish a process that**
22 **permits any employee or enrolled student of a public university listed in ORS 352.002 to ap-**
23 **peal to the commission any decision made by the governing board of the public university.**

24 **(2) The commission may evaluate and overturn any decision made by the governing board**
25 **of a public university that was appealed under the process established under subsection (1)**
26 **of this section if the commission determines that doing so is necessary to further the goals**
27 **and mission of post-secondary education set forth in ORS 350.009 and 350.014 or to further**
28 **the legislative findings set forth in ORS 352.025.**

29 **SECTION 7. (1) The amendments to ORS 352.076 by section 1 of this 2021 Act that relate**
30 **to appointing members of the governing board of a public university listed in ORS 352.002**
31 **apply to appointments made on or after the effective date of this 2021 Act.**

32 **(2) The amendments to ORS 352.096 by section 2 of this 2021 Act that relate to the hiring**
33 **or appointment of a secretary for the governing board of a public university listed in ORS**
34 **352.002 apply 91 days after the effective date of this 2021 Act.**

35 **(3)(a) Except as provided in paragraph (b) of this subsection, the amendments to ORS**
36 **350.050 by section 3 of this 2021 Act apply to appointments to the Higher Education Coordi-**
37 **nating Commission that are made on or after the effective date of this 2021 Act.**

38 **(b)(A) The Governor shall make any appointments necessary to ensure that all of the**
39 **members of the commission have been confirmed by the Senate in the manner prescribed in**
40 **ORS 171.562 to 171.565 by January 1, 2022.**

41 **(B) The term of office for each member of the commission who is confirmed by the**
42 **Senate under subparagraph (A) of this paragraph for a position on the commission that was**
43 **a position for a nonvoting member of the commission before the effective date of this 2021**
44 **Act shall end on the same date that the term of office for the nonvoting member was**
45 **scheduled to end.**

1 (4) The amendments to ORS 352.089 by section 4 of this 2021 Act apply to any major
2 course of study or minor course of study that is offered at a public university listed in ORS
3 352.002 on the effective date of this 2021 Act, regardless of whether a public announcement
4 to eliminate the program has been made by the public university.

5 (5) Section 6 of this 2021 Act applies to any decision by the governing board of a public
6 university listed in ORS 352.002 that is made on or after the effective date of this 2021 Act.

7 SECTION 8. This 2021 Act being necessary for the immediate preservation of the public
8 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
9 on its passage.

10