

Board and Commission Member Compensation

HB 2992 (Chapter 627, 2021 Oregon Law)

The Governor makes appointments to over 250 boards and commissions connected to various policy and subject matter areas, including to policy-making boards that head major state agencies and departments. Oregon law allows state board and commission members to receive statutory per diem compensation and reimbursement of certain expenses for each day or portion thereof which they spend time performing board or commission duties.

House Bill 2992, which was passed during the 2021 Legislative Session, is intended to reduce systemic barriers to participation in state boards and commissions by increasing the daily compensation rate (“per diem compensation”) from \$30 to \$151, an amount equal to the per diem compensation paid to members of the Legislative Assembly for each day or portion thereof which members spend time performing board or commission duties. This rate will be available to members of state boards and commissions for time spent in performance of official duties, unless otherwise limited or prohibited.

Agencies are **required** to pay per diem compensation and expenses for “qualified members,” defined as members who are (1) not in full-time public service, and (2) have an adjusted gross income for the previous tax year of less than \$50,000, or less than \$100,000 reported on a joint income tax return. The only exception to the requirement is if the qualified member declines compensation.

For members who exceed the adjusted gross income threshold, agencies **may** continue their usual practice of making independent decisions about whether to pay per diem compensation to members, through rules or otherwise. For these members, per diem compensation or expense reimbursement can be prohibited and may be contingent on available funding.

Members employed full-time in public service are not eligible to receive per diem compensation, but may receive expense reimbursement.

Frequently Asked Questions

❖ When will HB 2992 take into effect?

This bill takes effect on September 25, 2021, the 91st day following adjournment sine die.

❖ How will income be verified?

A self-verification form will be made part of the board/commission member welcome package.

❖ Does a board member’s eligibility to be a “qualified member” need to be determined once, or every year they are serving.

Members will need to complete the attestation form included with their board/commission welcome package upon original appointment and reappointment to a board or commission.

- ❖ What are the minimum qualifications to be a “qualified member” who must be paid the statutory per diem compensation?
A member who is not in full-time public service and who had an adjusted gross income in the previous tax year: (A) Of less than \$50,000, as reported on an income tax return other than a joint income tax return; or (B) Of less than \$100,000, as reported on a joint income tax return.
- ❖ Does HB 2992 eliminate the \$30 per diem compensation for board members who do not qualify for the new per diem outlined in Section 5 of HB 2992?
No, the bill changes the “default” amount of per diem compensation paid to board members from \$30 to \$151, an amount equal to the per diem compensation paid to members of the Legislative Assembly.
- ❖ Can an agency pay less than the maximum per diem compensation if the agency wants to use their budget for other things?
Under this bill, the board may not pay less than the statutory per diem compensation amount for qualified members (those who are below certain income thresholds, as described above). For members who are not qualified members, boards retain their preexisting authority to make independent determinations about whether or not to pay the statutory compensation, consistent with applicable statutes and rules.
- ❖ For Semi Independent Agencies (SIBA) HB 2992 changed portions of ORS Chapter 292. However, per ORS 182.460, most SIBAs are not subject to the provisions of ORS Chapter 292. Are SIBAs subject to the new per diem compensation requirements outline in HB 2992?
The Department of Justice (DOJ) has interpreted ORS 292.495 to apply to semi-independent boards and commissions’ qualified members even though those boards and commission are not otherwise subject to ORS 292.495.
- ❖ If there are meetings of varying lengths, should the same per diem compensation be paid regardless of meeting length?
ORS Chapter 292 provide that the flat statutory per diem compensation amount is to be paid for each day or portion thereof during which the member is actually engaged in the performance of official duties.
- ❖ Will there be notification if the “default” per diem compensation rate changes, or should each agency check every year? If the latter, which website has this information?
Currently the legislature does not post the “default” per diem compensation rate amount. The [Federal General Services Administration \(GSA\)](#) per diem and meals & incidentals standard rates (at the time of this document \$96 + \$55) is used.

If you have additional questions, please contact Executive Appointments at Executive.Appointments@oregon.gov. Boards and commissions are also encouraged to reach out to their DOJ contact counsel with questions specific to their own statutes or rules.