REVENUE: No revenue impact
FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass
Vote:	5 - 3 - 0
Yeas:	Dembrow, Frederick, Parrish, Gelser, Wingard
Nays:	Conger, Huffman, Komp
Exc.:	0
Prepared By:	Victoria Cox, Administrator
Meeting Dates:	3/23, 4/8

WHAT THE MEASURE DOES: Places on school districts the burden of proof in cases involving the determination of whether a student requires special education services. Places on parents the burden of proof in cases involving their request for special education services provided by a private entity.

ISSUES DISCUSSED:
- Special education determination process
- Burden on parents who disagree with determination
- Access to records and legal counsel
- Potential increase in litigation
- Federal Individuals with Disabilities Education Act (IDEA) mandates
- Message to families
- Support for school districts

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: In a 2005 decision (*Schaeffer v. Weast*), the U.S. Supreme Court held that the party bringing a due process claim under IDEA bears the burden of proof. Consequently, in 2006 the burden of proof in most Oregon cases shifted from school districts to parents who wish to challenge a determination of whether their child requires special education services. Proponents claim that this is an unfair burden, given that districts hold much of the relevant information and have ready access to legal counsel that families do not. House Bill 2296 shifts the burden of proof back to school districts in these cases. The measure further establishes that the burden of proof rests with parents in cases where they request tuition reimbursement for special education services provided by a private entity they select.

Several states have proposed and/or passed legislation similar to House Bill 2296 in the wake of the *Schaeffer v. Weast* decision.