

SB 8 STAFF MEASURE SUMMARY

Senate Committee On Housing

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Sub-Referral To: Senate Committee On Judiciary

Meeting Dates: 2/25, 4/8

WHAT THE MEASURE DOES:

Requires persons who challenge locally approved affordable housing development before the Land Use Board of Appeals to pay prevailing party's fees and costs. Specifies prevailing party includes original applicant and persons who appeared at local or state agency proceedings.

ISSUES DISCUSSED:

- Affordable housing shortage
- Finding ways to support development of affordable housing
- Oregon's unique land use system; local control over land use planning; approval processes open to broad public participation

EFFECT OF AMENDMENT:

[-1 amendment, 03.18.19] Replaces the measure. Directs LUBA to award reasonable attorney fees and expenses to prevailing respondent who is applicant or local government, upon affirming approval of an application to develop publicly supported housing.

[-2 amendment, 03.29.19] Same as -1 amendment; refined to state "only" publicly supported housing.

BACKGROUND:

Local jurisdictions in Oregon are required to prepare comprehensive land use plans that are consistent with implementation of a set of statewide planning goals, overseen by the Land Conservation and Development Commission (LCDC). Projects approved at the local level may be appealed to a specialized tribunal called the Land Use Board of Appeals (LUBA). Anyone who appears during proceedings at the local level when project approval is being sought, may intervene and become a party on appeal, and LUBA may award attorney fees in some circumstances.

Publicly supported housing is defined as the development of five or more units of multifamily rental housing that receives or benefits from specified government assistance, with a number of exceptions for developments receiving local fee waivers or tax abatement; or that are part of a local inclusionary housing program; or that receive certain tenant-based or project-based rent subsidies or assistance.

Senate Bill 8 requires LUBA to order challengers to pay the attorney fees and costs for prevailing parties, if the challenge is made against a locally-approved affordable housing project.