

HB 2096 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 04/30/19

Action: Do pass the A-Eng bill.

Vote: 7-0-0-0

Yeas: 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 4/30

WHAT THE MEASURE DOES:

Allows court to award reasonable attorney fees and costs to petitioner if court finds in favor of petitioner in contested case hearing against Oregon Government Ethics Commission (Commission). Allows for partial awards or withholding of attorney fee awards if the court finds the Commission proved its actions were substantially justified or special circumstances make an award of attorney fees unjust. Takes effect 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Multi-year effort to allow attorney fee award
- If person was wronged by Commission, attorney fees awarded
- Gives discretion to award attorney fees to judicial authority at all levels, from administrative law judge to supreme court justice
- Commission not currently included in Administrative Procedures Act

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Oregon Government Ethics Commission was created by initiative petition in 1974. It regulates areas such as disclosure of conflicts of interest and financial considerations of public officials, lobbyist regulation, and gifting. Currently, in a contested case hearing or appeal of decision, a person who prevails against the Commission is awarded attorney fees at the conclusion of the contested case or appeal.

House Bill 2096 A makes the award of attorney fees discretionary if the court finds in favor of a petitioner. Under the measure, a court may withhold attorney fee awards in whole or in part from a prevailing party if the court finds that the Commission proved that its actions were substantially justified or that special circumstances exist that would make an award of attorney fees unjust.