

SB 307 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 1/18

WHAT THE MEASURE DOES:

Requires that a party who objects only to the costs or fees awarded in a court-annexed arbitration must at that time raise any claims or defenses relating to an offer of judgment the party made under Oregon Rule of Civil Procedure 54 E. Applies to arbitrations commenced after the effective date. Takes effect January 1, 2024.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Parties who file civil actions in a Circuit Court can sometimes arbitrate the claims through court-annexed arbitration, either because they have agreed to do so, or because the court requires arbitration for claims that meet certain criteria. The arbitrator issues a decision on the case and may award costs as well as attorney fees, when permitted by contract or statute. A party who must pay the costs or attorney fees can choose to object to only the costs and fees awarded, if the party chooses not to appeal the entire decision. Objections to the costs or fees can be about the legal grounds for the award or about the amount awarded.

Oregon Rule of Civil Procedure (ORCP) 54 E governs the award of attorney fees when a defending party to a claim has made an offer to allow judgment, but the party making the claim did not accept the offer, and then did not beat the offer at trial. The decision-maker is not aware of the offer of judgment before making a decision on the merits of the claim. After the decision on the merits, the court conducts a separate hearing to determine whether and how much costs and attorney fees to award, at which point the parties may argue that ORCP 54 E grants or limits an award of attorney fees.

Senate Bill 307 requires that a party who objects only to the costs or fees awarded in a court arbitration must raise any ORCP 54 E claims or defenses at that time.