

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass
Vote: 5 - 0 - 0
Yeas: Beyer, Kruse, Prozanski, Walker, Burdick
Nays: 0
Exc.: 0
Prepared By: Matt Kalmanson, Counsel
Meeting Dates: 2/22

WHAT THE MEASURE DOES: Clarifies that the Oregon State Bar Board of Governors (“Board”) must determine whether a client suffered a loss that was caused by his or her lawyer’s dishonest conduct before it can award the client money from the Client Security Fund (“Fund”). Deletes requirement that the Board must determine that the lawyer was found guilty of a crime; was disciplined or resigned due to the dishonest conduct; or, was subject to a civil judgment before it may issue subpoenas to investigate claims.

ISSUES DISCUSSED:

- The purpose and nature of the Fund
- Board’s current inability to investigate claims
- Ambiguities in ORS 9.655

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: The Fund, which is funded by bar members, is designed to mitigate losses suffered by clients of active bar members that were caused by the lawyer’s dishonest conduct. The Board is charged with investigating claims by clients who seek payment from the Fund, but its subpoena power is dependent upon the lawyer being disciplined, charged with a crime, or subject to a civil judgment. If these conditions do not exist, for example, if the lawyer is deceased, the Board may not use a subpoena to require persons with knowledge to produce documents or sit for a deposition. HB 2355 allows the Board to issue subpoenas to investigate claims. The bill also clarifies that a finding of dishonesty by the Board is a necessary condition of payment from the Fund.