

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action: Do Pass as Amended, Be Printed Engrossed, and Be Placed on the Consent Calendar

Vote: 9 - 0 - 0

Yeas: Barker, Bonamici, Cameron, Flores, Komp, Krieger, Read, Whisnant, Macpherson

Nays: 0

Exc.: 0

Prepared By: Matt Kalmanson, Counsel

Meeting Dates: 2/6, 3/20

WHAT THE MEASURE DOES: Reorganizes statutes relating to notices of agency action in contested cases. Establishes that agencies must, in a contested case, send parties written notice of the rights and procedures that apply to the case, including a statement indicating whether discovery is allowed. Deletes requirement that agencies only provide notice to unrepresented parties. Requires notice to include a statement indicating whether the agency will enter a default order if the party does not request a hearing. Clarifies that the agency record, for purposes of a default order, includes all materials submitted by the party. Requires the officer presiding at a hearing to ensure that the record developed at the hearing shows a full and fair inquiry into the facts and the law.

ISSUES DISCUSSED:

- Substance and form of notices provided by agencies in contested case hearings under the Administrative Procedures Act
- Confusion by pro se litigants regarding procedures in contested case hearing
- Need for clarity and specificity in notice provisions

EFFECT OF COMMITTEE AMENDMENT: Corrects unintended drafting errors in original bill. Clarifies substantive requirements of agencies, including that an agency must: (1) serve the notices on the parties either personally or by mail; (2) identify in the notice, in a general manner, the issues to be considered at the hearing; (3) explain that parties may present evidence only if it is related to the issues that are the subject of the hearing; (4) state whether discovery is permitted and how it may be requested; and (5) inform the individual of all of the circumstances under which a default order may be entered. Ensures that the officer presiding at a hearing will develop the record fully to include the facts and the law applicable to the facts and issues before the tribunal.

BACKGROUND: HB 2423 separates and reorganizes two statutes that concern the notice that agencies must send to parties in a contested case, ORS 183.413 and ORS 183.415, each of which have provisions concerning the notice of the action that the agency is taking, as well as provisions concerning the hearing. HB 2423 amends ORS 183.415 to describe the notice that is sent to individuals to inform them of the action the administrative agency plans to take, and informs them of their right to a hearing, while ORS 183.413 will describe the notice that individuals will be sent to let them know when and where the hearing will take place and something about the hearing procedure. The bill also adds a few substantive requirements to the notice requirement, outlined above.

4/3/2007 8:42:00 AM

This summary has not been adopted or officially endorsed by action of the committee.