

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
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:	5/8

WHAT THE MEASURE DOES: Permits the Attorney General to represent the state, or any agency or officer of the state, as a lead plaintiff in a securities fraud class action.

ISSUES DISCUSSED:

- Prohibition on Attorney General representing lead plaintiff in a class action
- The Oregon Public Employees Retirement Fund and securities fraud
- Benefits of having lead plaintiff status in securities fraud class actions
- Practice of pension funds in other states
- Recovery of attorney fees

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 180.060 provides that the Attorney General may not represent or give legal advice to anyone other than the state, state officers, agencies, boards or commissions. This prohibition impacts whether the Oregon Public Employees Retirement Fund (“Fund”) may serve as a “lead plaintiff” in a securities fraud class action. Generally, the “lead plaintiff” or “class representative” in a securities class action is a sophisticated party whose interests are similar to those of the other class members, and is appointed by the court to make strategic decisions in the case on the class’ behalf. Because the lead plaintiff must represent the interests of the class, the Attorney General believes the Fund may not act as a lead plaintiff without violating ORS 180.060, even though it can be beneficial to have lead plaintiff status. In that regard, the lead plaintiff in federal securities fraud class actions is typically the class member with the largest financial interest at stake, which in many cases would be the Fund (it is one of the largest public pension funds in the country). SB 65 would permit the Attorney General to represent the Fund as a lead plaintiff in a securities fraud class action.