

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: 2/7

WHAT THE MEASURE DOES: Establishes that the Attorney General (AG) may represent the state, or any agency or officer of the state, who appears as a lead plaintiff in a class action involving a claim relating to a security, even if the class includes individuals or entities that the AG may not otherwise represent.

ISSUES DISCUSSED:

- Statutory prohibition on the AG representing a party as a lead plaintiff in a class action
- The Oregon Public Employees Retirement Fund (OPERF) and securities fraud
- General benefits of having lead plaintiff status in securities class actions
- Practice of pension funds in other states

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 180.060 provides that the AG may not represent or give legal advice to anyone other than the state, state officers, agencies, boards or commissions. This prevents OPERF from serving as a “lead plaintiff” in a securities class action. Generally, the “lead plaintiff” or “class representative” is a 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. Although OPERF may “opt-out” of a class and proceed on its own, it can be beneficial for the OPERF and the class if OPERF can act as a lead plaintiff. Pension funds from other states have been appointed lead plaintiff in several federal securities cases.