

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass as Amended and Be Printed Engrossed

Vote: 5 - 0 - 0

Yeas: Beyer, Kruse, Prozanski, Walker, Burdick

Nays: 0

Exc.: 0

Prepared By: Matt Kalmanson, Counsel

Meeting Dates: 1/23, 2/12

WHAT THE MEASURE DOES: Repeals ORS 21.605, which concerns the waiver or deferral of filing fees, court costs, and transcripts on appeal. Establishes that a court in a civil action may waive or defer fees for a party if it determines that the party is unable to pay. Allows a presiding judge to delegate this authority to a court administrator, but permits a party to appeal the administrator's decision to a court. Authorizes the Supreme Court to create standards and practices for the waiver or deferral of fees or costs. Permits appellate courts to waive or defer the cost of preparing a transcript on appeal if the party can establish an inability to pay and the transcript is necessary to prosecute the appeal. Allows a court to enter a judgment in favor of the state (or county or municipality) against the party for any deferred costs and fees, but allows the party to petition the court for relief from the judgment. Establishes that if an obligor – defined as a person who had their fees deferred – has had a fee waived and then prevails in the case, and the losing party is liable to the winning party for costs and disbursements, a court may require the losing party to pay the state the waived amount. Establishes that all information collected in applying for waiver or deferral of fees is confidential.

ISSUES DISCUSSED:

- Work and findings of the Judicial Department Fee Waiver/Deferral Policy Work Group
- Need to update fee waiver and deferral statutes to make them more efficient and user friendly, while taking into account changes in court systems and administration, record-keeping and ability to pursue collections
- Confidentiality of information
- Need to substitute word “person” for “obligor” when referring to persons whose fees are waived, not deferred
- Intent for waiver and deferral provisions to apply only to court costs and fees

EFFECT OF COMMITTEE AMENDMENT: Deletes Section 4 of SB 271, which concerns the effect of a denial of an application for a fee waiver. Substitutes the word “person” for “obligor” in section that describes the nature of the judgment in an action in which a fee was waived, because “obligor” is defined in the bill as a person who has had a fee deferred. Establishes that if a “person” who receives a fee waiver prevails in an action, the court may require the losing party to pay the state (or municipality or county) the waived amounts. Clarifies that the waiver and deferral provisions in SB 271 apply only to fees and costs that are paid to the court.

BACKGROUND: SB 271 is the product of the Oregon Judicial Department's Fee Waiver/Deferral Policy Work Group, which was formed to study current court fee waiver and deferral processes. The Work Group included trial and appellate court personnel, staff from the Office of the State Court Administrator, and other interested parties. Although there have been minor adjustments to the waiver and deferral statutes, a comprehensive review of these statutes and procedures has not occurred since the early 1980s. Since that time, there have been changes in state court systems and administration. SB 271 is designed to enhance access to the courts, update and improve the fee waiver and deferral statutes, provide adequate information to appellate courts, and make the process more efficient.

2/23/2007 10:08:00 AM

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