

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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<b>Action:</b>	Do Pass as Amended and Be Printed Engrossed
<b>Vote:</b>	3 - 1 - 1
<b>Yeas:</b>	Kruse, Prozanski, Burdick
<b>Nays:</b>	Walker
<b>Exc.:</b>	Beyer
<b>Prepared By:</b>	Bill Taylor, Counsel
<b>Meeting Dates:</b>	2/27, 4/19

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**WHAT THE MEASURE DOES:** Removes the requirement that a parole hearing for someone sentenced to life imprisonment pursuant to ORS 163.105 or 163.115 must be conducted as a contested-case hearing. Applies to hearings conducted on or after the effective date of the Act unless: (A) The petitioner had petitioned the State Board of Parole and Post-Prison Supervision prior to the effective date of this Act; (B) The prisoner was eligible for a hearing at the time the petition was filed; and (C) The prisoner has not been granted a hearing on the petition that was filed prior to the effective date of this Act. Effective upon passage.

**ISSUES DISCUSSED:**

- Contested case hearing should not apply
- Victims should not be subject to having to testify in parole hearing

**EFFECT OF COMMITTEE AMENDMENT:** Applies to hearings conducted on or after the effective date of the Act unless: (A) The petitioner had petitioned the State Board of Parole and Post-Prison Supervision prior to the effective date of this Act; (B) The prisoner was eligible for a hearing at the time the petition was filed; and (C) The prisoner has not been granted a hearing on the petition that was filed prior to the effective date of this Act. Effective upon passage.

**BACKGROUND:** ORS 163.105 and 163.115 require that the parole hearing for someone convicted of murder must be conducted as a contested-case hearing under ORS 183, Oregon's Administrative Procedures Act. ORS 183.315(1) states that Oregon's Administrative Procedures Act (APA) does not apply to the State Board of Parole and Post-Prison Supervision. These statutory provisions are contradictory.

The State Board of Parole and Post-Prison Supervision historically did not follow the APA for any parole hearing based on the general exemption from the process set forth in ORS 183.315(1). Rex Lee Larsen, convicted of murder in 1978, and serving a life sentence with the possibility of parole after 20 years, challenged his parole hearing, for among other reasons, that the Board did not follow the contested-case proceedings of the APA. When faced with these two contradictory statutory provisions, the Court of Appeals determined that the specific provisions of ORS 163.105 and 163.115 supersede the more general provision of ORS 183.315(1). Thus, Mr. Larsen's parole hearing was subject to the contested-case proceedings of Oregon's APA. *Larsen v. Board of Parole and Post-Prison Supervision*, (June 2006).