

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	6 - 1 - 2
Yeas:	Barker, Cameron, Krieger, Read, Whisnant, Macpherson
Nays:	Bonamici
Exc.:	Flores, Komp
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	5/16, 5/17, 5/23

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 this 2007 Act unless: (A) The petitioner had petitioned the State Board of Parole and Post-Prison Supervision (“Board”) 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. Gives the prisoner the right to have subpoenas issued by the Board upon a showing of the general relevance and reasonable scope of the evidence sought. Requires that the Board’s final order must include findings of fact consisting of a concise statement of the underlying facts supporting each contested issue. Declares an emergency; effective upon passage.

ISSUES DISCUSSED:

- Should this hearing process follow the Administrative Procedures Act or be more closely modeled on the board’s current hearing process

EFFECT OF COMMITTEE AMENDMENT: Gives the prisoner the right to have subpoenas issued by the Board upon a showing of the general relevance and reasonable scope of the evidence sought. Requires that the Board’s final order must include findings of fact consisting of a concise statement of the underlying facts supporting each contested issue.

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 (APA). ORS 183.315(1) states that the APA does not apply to the Board. These statutory provisions are contradictory.

The Board 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).