

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass and Be Placed on the Consent Calendar
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:	3/13

WHAT THE MEASURE DOES: Deletes the word “general” from ORS 130.105, part of the Oregon Uniform Trust Code (“Code”), which concerns the ability of holders of testamentary powers of appointment to bind persons whose interests are subject to the power of appointment. Permits the holder of limited powers of appointment to represent and bind persons whose interests are subject to the power of appointment.

ISSUES DISCUSSED:

- The Uniform Trust Code
- How testamentary powers of appointment work, and the difference between general and limited powers of appointment
- The effect of ORS 130.105 on the ability of trustees to give notice to beneficiaries about the trust

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: SB 305 makes a technical change to the Code, which Oregon adopted last session. As currently written, ORS 130.105 allows a trustee to give notice about a trust to an individual who holds a “general testamentary power of appointment.” The individual, or “holder,” is usually a trust beneficiary who holds some interest that will be given (or “appointed”) to other, undetermined individuals at the holder’s death (such as the holder’s children). If a trustee could not give notice to the holder of the general testamentary power only, the trustee would have to undertake complicated, expensive procedures to give notice to the undetermined individuals whose interests are subject to the power of appointment. A limited testamentary power of appointment limits, but only minimally, to whom the holder can give future interests, and it is unclear why the statute is restricted to “general” powers of appointment. SB 305 removes the word “general” to clarify that all holders of testamentary powers of appointment can bind future interests, and thus a trustee can give notice about the trust to the holder only.