

**REVENUE:** No revenue impact

**FISCAL:** Fiscal statement issued

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<b>Action:</b>	Do Pass
<b>Vote:</b>	10 - 0 - 0
<b>Yeas:</b>	Barton, Cameron, Edwards C., Esquivel, Holvey, Kennemer, Matthews, Thatcher, Witt, Schaufler
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	Theresa Van Winkle, Administrator
<b>Meeting Dates:</b>	1/28

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**WHAT THE MEASURE DOES:** Allows either party in an unemployment hearing to file a request to reopen a hearing following the issuance of a written decision by the administrative law judge. Outlines conditions in which a hearing can be reopened. Allows the Director of the Employment Department to provide documents by any delivery method to all parties participating in an unemployment hearing. Requires the presiding administrative law judge to explain issues that the unrepresented claimant or employer must either prove or disprove and ensure that the record shows a full and fair inquiry into the facts necessary for considering all issues in the case.

**ISSUES DISCUSSED:**

- Examples of circumstances that could necessitate a hearing to be re-opened
- Time limits for requesting another hearing

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** House Bill 2163, enacted in the 2003 legislative session, allows Administrative Law Judges (ALJ) to dismiss unemployment hearings when the parties failed to appear. The measure led to unintended consequences that resulted in a few parties being prevented from having a hearing reopened, including cases in which there was good cause for non-appearance. Current statute allows another hearing to be scheduled only for the party that requested the hearing, which is not compliant with the United States Department of Labor's interpretation of federal law related to opportunities for a fair hearing. There is potential for Oregon to be out of conformity with federal law due to the statutory omission of allowing any party in a hearing to request a hearing to be reopened with good cause, which could lead to the loss of a multi-million dollar administrative grant to the Employment Department, as well as the possibility of employers being required to pay an additional \$1.04 billion in federal unemployment taxes.

House Bill 2202 allows the presiding ALJ to reopen a hearing if any party requesting the reopening failed to appear at the hearing, the party files the request within 20 days after the issuance of the written decision, and the cause of the failure to appear was beyond the control of the requesting party.

Other provisions of House Bill 2202 include expanding the Employment Department's authority to deliver information to parties involved in an unemployment insurance claims hearing from mail to other methods such as email or fax; and requiring an ALJ to explain issues that the unrepresented claimant or employer must prove or disprove in the hearing, as well as ensuring that the hearing's record shows a full and fair inquiry of what is necessary for considering all issues brought forth in the hearing. "Unrepresented" is defined as the claimant or employer not being represented by either an attorney, legal assistant, paralegal, union representative, or someone otherwise qualified either by experience and/or training.

1/30/2009 12:13:00 PM

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