

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	4 - 1 - 0
Yeas:	Bonamici, Dingfelder, Whitsett, Prozanski
Nays:	Boquist
Exc.:	0
Prepared By:	Anna Braun, Counsel
Meeting Dates:	1/28

WHAT THE MEASURE DOES: Allows service of the appeal petition from the Land Use Board of Appeals (LUBA) and the other parties by first class mail.

ISSUES DISCUSSED:

- No policy basis for the difference in service between LUBA and circuit court appeals

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: ORS 19.260 governs service to the Court of Appeals from the circuit courts and allows the appeal to be served “by first class, registered or certified mail.” However, ORS 197.850 requires appeals from the Land Use Board of Appeals (LUBA) to be served by registered or certified mail. The Supreme Court in Wal-Mart v. City of Central Point found this requirement to be jurisdictional and dismissed the appeal because Wal-Mart served the other parties by first-class mail.

SB 234 allows service of an appeal of a LUBA decision by first class mail. The change will make service on a LUBA appeal consistent with that of the circuit courts. This bill would not affect filing of the appeal from the Court of Appeals which would still require certified or registered mail.