

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	5 - 0 - 0
Yeas:	Bonamici, Boquist, Dingfelder, Whitsett, Prozanski
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	1/26

WHAT THE MEASURE DOES: Clarifies that a power of attorney may become effective at a specified time in the future or upon the occurrence of a certain specified event such as the person subject to the power of attorney becoming “financially incapable.”

ISSUES DISCUSSED:

- Oregon may be the only state that does not have statutory authority for springing power of attorney
- Statutory authority better than relying upon common law

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: A person may authorize another person to act on behalf of the other person through the use of a power of attorney. A power of attorney that becomes effective at a specified future time or on the occurrence of a specified future event or contingency is called a springing power of attorney. Often, the future event that causes the power of attorney to come into effect is the incapacity of the person authorizing the power of attorney.

Although springing powers of attorney are widely used in Oregon, there is currently no statutory framework governing their use.

ORS 125.005(3) defines “financially incapable” as a condition in which a person is unable to manage financial resources of the person effectively for reasons including, but not limited to, mental illness, mental retardation, physical illness or disability, chronic use of drugs or controlled substances, chronic intoxication, confinement, detention by a foreign power or disappearance. “Manage financial resources” means those actions necessary to obtain, administer and dispose of real and personal property, intangible property, business property, benefits and income.