
MEMORANDUM

Legislative Fiscal Office
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To: Public Safety Subcommittee of the Joint Committee on Ways and Means

From: Kim To, Legislative Fiscal Office, 503-986-1830

Date: June 12, 2013

Subject: HB 3129 Relating to professional fiduciaries
Work Session Recommendation

House Bill 3129 requires an individual seeking appointment as a professional fiduciary to provide proof of certification by the Center for Guardianship Certification or its successor organization as a National Certified Guardian or a National Master Guardian. The bill establishes an eleven-member Fiduciary Education Work Group charged with reviewing best practices and making recommendations regarding professional fiduciaries.

The measure previously had hearings in the House Committee on Human Services and Housing on 3/15/2013, 4/3/2013, and 4/5/2013.

The original staff measure summary, a dash A5 amendment, and the fiscal impact statements are attached to this memo, and available on the Oregon Legislative Information System (OLIS).

The amendment

The -A5 amendment eliminates the establishment of the Work Group; and clarifies that the petition for the appointment of a professional fiduciary must include proof that the professional fiduciary or a person responsible for making decisions for clients, or managing assets for the fiduciary must be certified by a national organization.

Fiscal impact

This measure with the - A5 amendment is anticipated have minimal impact on the Oregon Judicial Department, the Long-Term Care Ombudsman Office, the Department of Human Services, and the Oregon Health Authority.

Recommendation

LFO recommends moving the - A5 amendment into the bill.

Motion

Motion: Senator/Representative _____: I move the dash A5 amendment into HB 3129.

Recommendation

The measure is recommended to be moved to the Full Committee on Joint Ways and Means.

Motion

Motion: Senator/Representative _____: I move HB 3129 with the dash A5 amendment to the Full Committee with a "do pass" recommendation as amended.

Assignment of Carriers

Full: _____

Senate: _____

House: _____

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3129**

1 On page 1 of the printed A-engrossed bill, line 2, delete “creating new
2 provisions; and”.

3 Delete lines 8 through 10 and insert:

4 “(a) Proof that the professional fiduciary, or an individual responsible for
5 making decisions for clients or for managing client assets for the profes-
6 sional fiduciary, is certified by the Center for Guardianship Certification or
7 its successor organization as a National Certified Guardian or a National
8 Master Guardian.”.

9 On page 2, line 15, restore “the professional fiduciary and”.

10 In lines 17 and 18, restore the bracketed material.

11 On page 3, delete lines 21 through 45 and delete page 4.

12

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3129 - A5

Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office

*Only Impacts on Original or Engrossed
Versions are Considered Official*

Prepared by: Kim To
Reviewed by: Laurie Byerly, Steve Bender
Date: 5/21/2013

Measure Description:

Prohibits person from being nominated as fiduciary or serving as fiduciary for three or more protected persons who are not related to person unless person is certified by Center for Guardianship Certification or its successor organization.

Government Unit(s) Affected:

Department of Human Services (DHS), Judicial Department

Analysis:

The proposed legislation has been determined to have

NO EXPENDITURE IMPACT

on state or local government.

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: HB 3129 - A**Seventy-Seventh Oregon Legislative Assembly – 2013 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Kim To
Reviewed by: Laurie Byerly
Date: 4/4/2013

Measure Description:

Prohibits person from being nominated as fiduciary or serving as fiduciary for three or more protected persons who are not related to person unless person is certified as professional fiduciary by the Center for Guardianship Certification or its successor organization as a National Certified Guardian or a National Master Guardian.

Government Unit(s) Affected:

Oregon Judicial Department (OJD)

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

House Bill 3129 A-Engrossed requires an individual seeking appointment as a professional fiduciary to provide proof of certification by the Center for Guardianship Certification or its successor organization as a National Certified Guardian or a National Master Guardian. The bill establishes an eleven-member Fiduciary Education Work Group charged with reviewing best practices and making recommendations regarding:

- Training and continuing education for professional fiduciaries;
- Whether Oregon should require certification of professional fiduciaries in addition to or instead of certification as a National Certified Guardian or a National Master Guardian;
- Whether the work group should be extended beyond January 2, 2016, the date the work group is set to sunset within the provisions of this bill.

The work group is required to report its recommendations to the legislature by August 1, 2014. The bill specifies that the group must meet no less than once per month from its establishment until August 1, 2014. Members of the work group are entitled to reimbursement for expenses incurred in the performance of official duties. The Oregon Judicial Department is required to provide staffing and reimbursement expenses to the work group. The bill is effective on January 1, 2014.

The Oregon Judicial Department (OJD) estimates the fiscal impact of supporting this work group to be approximately \$124,191 General Fund and 0.56 FTE for seven months of 2013-15 biennium. OJD reports that the intense scope of activities and the short timeline (January 1, 2014 to August 1, 2014) provided to gather the information, formulate recommendations, and produce a report would require the establishment of two limited duration positions for 9 months (one Analyst 4 position and one Management Assistant position) to perform the research and meeting coordination workload in support of the work group.

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means by Prior Reference
Vote:	9 - 0 - 0
Yeas:	Gallegos, Gelser, Gilliam, Gomberg, Keny-Guyer, Olson, Whisnant, Whitsett, Tomei
Nays:	0
Exc.:	0
Prepared By:	Regina Wilson, Administrator
Meeting Dates:	3/15, 4/3

WHAT THE MEASURE DOES: Creates State Board of Professional Fiduciaries (Board), within the Department of Human Services (DHS), to adopt rules for fiduciaries. Mandates Board adopt code of conduct for professional fiduciaries. Directs DHS to certify fiduciaries. Requires individual seeking appointment as fiduciary be certified as National Certified Guardian or National Master Guardian by Center for Guardianship Certification.

ISSUES DISCUSSED:

- Professional fiduciary standards
- Code of ethics
- Mandatory certification

EFFECT OF COMMITTEE AMENDMENT: Requires an individual seeking appointment as a professional fiduciary to provide proof of certification by the Center for Guardianship Certification or its successor organization as a National Certified Guardian or a National Master Guardian. Establishes the Fiduciary Education Work Group.

BACKGROUND: Courts may appoint guardians to make decisions for protected persons, and/or conservators to manage the property and assets of protected persons. Both guardians and conservators are “fiduciaries,” in that they are required to act for the benefit of another or others (ORS Chapter 125).

In 2011, the legislature created the Joint Interim Task Force on Public Guardian and Conservator, (via House Bill 2237), that recommended mandatory certification and licensure of professional fiduciaries. House Bill 3129A creates a State Board of Professional Fiduciaries, within the Department of Human Services, to adopt rules and a code of conduct, for professional fiduciaries to be certified by the Department of Human Services.

Joint Committee on Ways and Means

Carrier – House:
Carrier – Senate:

Revenue: No revenue impact

Fiscal: Fiscal statement issued

Action:

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Kim To, Legislative Fiscal Office

Meeting Date: 6/14/2013

WHAT THE MEASURE DOES: Requires an individual seeking appointment as a professional fiduciary to provide proof of certification by the Center for Guardianship Certification or its successor organization as a National Certified Guardian or a National Master Guardian. The bill establishes an eleven-member Fiduciary Education Work Group charged with reviewing best practices and making recommendations regarding professional fiduciaries.

ISSUES DISCUSSED:

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EFFECT OF COMMITTEE AMENDMENT: The –A5 amendment eliminates the establishment of the Work Group; and clarifies that the petition for the appointment of a professional fiduciary must include proof that the professional fiduciary or a person responsible for making decisions for clients, or managing assets for the fiduciary must be certified by a national organization

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