

**PROPOSED MINORITY REPORT AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4143**

1 On page 1 of the printed A-engrossed bill, line 2, after “amending” delete
2 the rest of the line and delete line 3 and insert “ORS 9.577 and ORCP 32
3 M; and appropriating money.”.

4 Delete lines 5 through 24 and delete pages 2 and 3 and insert:

5 **“SECTION 1. ORCP 32 M is amended to read:**

6 **“M Attorney fees, costs, disbursements, and litigation expenses.**

7 **“M(1)(a) Attorney fees for representing a class are subject to control of
8 the court.**

9 **“M(1)(b) If under an applicable provision of law a defendant or defendant
10 class is entitled to attorney fees, costs, or disbursements from a plaintiff
11 class, only representative parties and those members of the class who have
12 appeared individually are liable for those amounts. If a plaintiff is entitled
13 to attorney fees, costs, or disbursements from a defendant class, the court
14 may apportion the fees, costs, or disbursements among the members of the
15 class.**

16 **“M(1)(c) If the prevailing class recovers a judgment that can be divided
17 for the purpose, the court may order reasonable attorney fees and litigation
18 expenses of the class to be paid from the recovery.**

19 **“M(1)(d) The court may order the adverse party to pay to the prevailing
20 class its reasonable attorney fees and litigation expenses if permitted by law
21 in similar cases not involving a class.**

22 **“M(1)(e) In determining the amount of attorney fees for a prevailing class**

1 the court shall consider the following factors:

2 “M(1)(e)(i) The time and effort expended by the attorney in the litigation,
3 including the nature, extent, and quality of the services rendered;

4 “M(1)(e)(ii) Results achieved and benefits conferred upon the class, **not**
5 **including damages that are unclaimed as provided in section 2 of this**
6 **2014 Act;**

7 “M(1)(e)(iii) The magnitude, complexity, and uniqueness of the litigation;

8 “M(1)(e)(iv) The contingent nature of success; and

9 “M(1)(e)(v) Appropriate criteria in Rule 1.5 of the Oregon Rules of Pro-
10 fessional Conduct.

11 “M(2) Before a hearing under section C of this rule or at any other time
12 the court directs, the representative parties and the attorney for the repre-
13 sentative parties shall file with the court, jointly or separately:

14 “M(2)(a) A statement showing any amount paid or promised them by any
15 person for the services rendered or to be rendered in connection with the
16 action or for the costs and expenses of the litigation and the source of all
17 of the amounts;

18 “M(2)(b) A copy of any written agreement, or a summary of any oral
19 agreement, between the representative parties and their attorney concerning
20 financial arrangement or fees; and

21 “M(2)(c) A copy of any written agreement, or a summary of any oral
22 agreement, by the representative parties or the attorney to share these
23 amounts with any person other than a member, regular associate, or an at-
24 torney regularly of counsel with the law firm of the representative parties’
25 attorney. This statement shall be supplemented promptly if additional ar-
26 rangements are made.

27 **“M(3) If an agreement between the representative parties and their**
28 **attorney provides for the representative parties to pay to the attorney**
29 **a percentage of damages recovered by the class as attorney fees, the**
30 **court may not award as attorney fees any percentage of damages that**

1 are unclaimed as provided in section 2 of this 2014 Act.

2 **“SECTION 2. ORCP 32 is amended by adding a new section O to**
3 **read:**

4 **“O Payment of damages. If any amount awarded in a judgment in**
5 **a class action, other than a judgment approving a settlement, is not**
6 **claimed within the time specified by the court, the court shall order**
7 **that:**

8 **“(1) Fifty percent of the amounts not paid to class members be de-**
9 **posited in the Legal Aid Account established in ORS 9.577; and**

10 **“(2) Fifty percent of the amounts not paid to class members be de-**
11 **posited in the Domestic Violence Programs Account established in**
12 **section 4 of this 2014 Act.**

13 **“SECTION 3. ORS 9.577 is amended to read:**

14 **“9.577. (1) The Legal Aid Account is established in the General Fund of**
15 **the State Treasury. All moneys in the account are continuously appropriated**
16 **to the State Court Administrator for the purpose of [the distributions re-**
17 **quired by this section.] funding the Legal Services Program established**
18 **under ORS 9.572. Upon request of the State Court Administrator, the**
19 **State Treasurer shall create subaccounts within the account for the**
20 **purposes of managing moneys in the account and distributing moneys**
21 **from the account as described in this section. The State Treasurer**
22 **may charge the account for actual costs associated with the adminis-**
23 **tration of the account.** Interest earned by the account shall be credited to
24 the General Fund.

25 **“(2) Each month, the State Court Administrator shall transfer to the Le-**
26 **gal Aid Account, from amounts collected by the State Court Administrator**
27 **as fees and charges in the circuit courts, the amounts necessary to make the**
28 **distributions required by subsection (3) of this section.**

29 **“(3) Each biennium, the State Court Administrator shall distribute to the**
30 **Oregon State Bar \$11.9 million from the Legal Aid Account, using the**

1 **amounts transferred to the account under subsection (2) of this sec-**
2 **tion.** Distributions under this [section] **subsection** shall be made by the
3 State Court Administrator in eight quarterly installments of equal
4 amounts[, *with the first distribution to be made as soon as possible after July*
5 *1, 2011*]. Amounts distributed to the Oregon State Bar under this subsection
6 may be used only for the funding of the Legal Services Program established
7 under ORS 9.572.

8 **“(4) The State Court Administrator may make further distributions**
9 **to the Oregon State Bar from the amounts deposited in the Legal Aid**
10 **Account under section 2 of this 2014 Act. Amounts distributed to the**
11 **Oregon State Bar under this subsection may be used only for the**
12 **funding of legal services related to domestic violence offered by the**
13 **Legal Services Program.**

14 **“SECTION 4. The Domestic Violence Programs Account is estab-**
15 **lished in the State Treasury, separate and distinct from the General**
16 **Fund. All moneys in the account are continuously appropriated to the**
17 **Department of Justice and may be used only for distribution to district**
18 **attorneys for use in domestic violence programs. The State Treasurer**
19 **may charge the account for actual costs associated with the adminis-**
20 **tration of the account. Interest earned by the account shall be credited**
21 **to the General Fund.**

22 **“SECTION 5. At least once every five years for as long as the Legal**
23 **Services Program established under ORS 9.572 receives funding from**
24 **the state or from local governments, the Secretary of State shall**
25 **conduct a financial audit of the Legal Services Program established**
26 **under ORS 9.572. The actual costs of conducting the audits shall be**
27 **charged to the Oregon State Bar.**

28 **“SECTION 6. (1) On or before December 31 of every even-numbered**
29 **year, the Oregon State Bar shall prepare and submit to an appropriate**
30 **interim committee of the Legislative Assembly a detailed report on the**

1 **Legal Services Program. The report must include, but need not be**
2 **limited to:**

3 **“(a) A list of all legal services providers and individual attorneys**
4 **that provided services under the program during the previous two**
5 **years.**

6 **“(b) A financial report for each legal service provider that provided**
7 **services through the program during the previous two years, including**
8 **sources of all revenues.**

9 **“(c) The number of files opened during the previous two years in**
10 **each of the following subject areas:**

11 **“(A) Domestic relations.**

12 **“(B) Landlord and tenant.**

13 **“(C) Employment law.**

14 **“(D) Torts.**

15 **“(E) Debtor and creditor.**

16 **“(d) The number of actions filed during the previous two years in**
17 **each of the subject areas listed in paragraph (c) of this subsection.**

18 **“(e) The number of cases resulting in a judgment during the previ-**
19 **ous two years in each of the subject areas listed in paragraph (c) of**
20 **this subsection.**

21 **“(f) The number of cases that were filed as an action resulting in**
22 **a settlement during the previous two years in each of the subject areas**
23 **listed in paragraph (c) of this subsection.**

24 **“(g) The number of cases that were never filed as an action result-**
25 **ing in a settlement during the previous two years in each of the sub-**
26 **ject areas listed in paragraph (c) of this subsection.**

27 **“(h) The number of administrative claims handled during the pre-**
28 **vious two years, broken down by administrative agency.**

29 **“(i) The number of administrative claims filed and subsequently**
30 **withdrawn during the previous two years.**

1 **“(2) The information described in subsection (1)(c) to (g) of this**
2 **section may not include a miscellaneous category.**

3 **“SECTION 7. Section 2 of this 2014 Act and the amendments to**
4 **ORCP 32 M by section 1 of this 2014 Act apply only to class actions**
5 **commenced on or after the effective date of this 2014 Act.”.**

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