

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Laura Handzel, Administrator

Meeting Dates: 2/25

WHAT THE MEASURE DOES: Clarifies which parties must appear in court proceedings by attorney and which parties are permitted to appear absent of counsel. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Current Oregon law states that any action, suit or proceeding may be prosecuted or defended by a party in person, or by attorney, except that the state or a “corporation” must appear by attorney in all cases. (ORS 9.320.) “Corporation” is left undefined within this statute as well as in several other sections or, where a definition is included, is ambiguous. This has led to some individuals applying a narrow definition to the term and interpreting the statute as only requiring the state or a formal corporation to appear by attorney. Several state court opinions find a much broader meaning of “corporation,” ruling that the requirement also applies to LLCs, partnerships, trusts, unincorporated associations, and other entities.

House Bill 2328 clarifies the statute and its meaning by deleting the word “corporation” and inserting “party that is not a natural person” both in ORS 9.320 and other relevant ORS sections.