

HB 2357 STAFF MEASURE SUMMARY

Carrier: Rep. Post

House Committee On Judiciary

Action Date: 02/15/17

Action: Do Pass.

Vote: 11-0-0-0

Yeas: 11 - Barker, Gorsek, Greenlick, Lininger, Olson, Post, Sanchez, Sprenger, Stark, Vial, Williamson

Fiscal: Has minimal fiscal impact

Revenue: Has minimal revenue impact

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Extends existing judicial authority to impose contempt of court liability on corporations to modern business entities, such as limited liability corporations. Declares emergency; effective on passage.

ISSUES DISCUSSED:

- Limited liability corporations created in statute in 1993
- Gives court ability to impose contempt of court sanctions on modern entities as could be imposed on corporations
- Use of "high managerial agent" in measure matches current statutory definition
- Removal of emergency clause

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Since 1991, Oregon courts have had the statutory authority to impose contempt liability on corporations when an employee, high managerial agent, or board of directors engages in or authorizes conduct subject to contempt. Managers or the board of directors may also be individually liable for contempt if they engage in, authorize, request, or knowingly tolerate the conduct. Contempt of court is willful misconduct in the presence of the court, disobedience of a court order or judgment, failure to produce a required document or appear or answer questions as a required witness, or direct violation of a statute that subjects a person to a court's contempt powers. Contempt sanctions can be remedial or punitive: remedial sanctions attempt to compensate a party for losses associated with the conduct constituting contempt; punitive sanctions are imposed by a court to punish a past contempt. *See ORS 33.015.*

House Bill 2357 expands the court's power to impose remedial or punitive contempt sanctions onto other business entities, including limited liability corporations. The measure incorporates the definition of "high managerial agent" that is found in the corporate criminal liability statutes (ORS 161.170(2)(b)) and specifies additional definitions. The measure subjects partners and limited liability company members and managers to contempt as individuals in the same way as corporate boards of directors and managers.