

SB 83 A STAFF MEASURE SUMMARY

Carrier: Sen. Thatcher

Senate Committee On Judiciary

Action Date: 03/06/17

Action: Do pass the A-Eng bill.

Vote: 5-0-0-0

Yeas: 5 - Dembrow, Linthicum, Manning Jr, Prozanski, Thatcher

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Returns review of Public Utility Commission (PUC) informal orders to Marion County Circuit Court. Retains review of contested case orders from PUC administrative hearings in Court of Appeals. Makes conforming amendments.

ISSUES DISCUSSED:

- Difference between informal orders and contested case orders, all of which are currently reviewed by Court of Appeals
- Formal orders in contested cases have evidence and finding of fact
- Informal orders may result from action taken after notice and opportunity for comment
- Prior to 2005, all Public Utility Commission (PUC) final orders could be reviewed by Marion County Circuit Court
- In 2005, PUC brought in line with other state agencies for review of orders by Oregon Court of Appeals, but included informal order review
- Measure returns informal order review to Marion County Circuit Court while keeping contested case hearings in Oregon Court of Appeals

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Under Oregon law, any person adversely affected by an agency order, or any party to an agency proceeding, is entitled to have the courts review the final order of the proceeding. The Oregon Court of Appeals reviews contested cases.

The Oregon Public Utility Commission (PUC) regulates rates and services provided by many utilities and has existed in some form since 1843. Currently, the PUC is a three-member panel appointed by the Governor. The PUC has an Administrative Hearings Division, where administrative law judges hear contested cases. Prior to 2005, all PUC final orders could be appealed to the Marion County Circuit Court. Since 2005, all final orders issued by the PUC may be appealed to the Court of Appeals, including informal orders. Informal orders, such as determinations made by the PUC on property finance applications, are made after notice and opportunity for a hearing. Contested case hearings have a formal process in front of an administrative law judge while informal orders do not.

Senate Bill 83 A clarifies that formal contested case orders may be appealed directly to the Oregon Court of Appeals while informal orders, called "other than contested cases," would have review through the Marion County Circuit Court.