

HB 2561 A STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 03/20/17

Action: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)

Vote: 9-0-2-0

Yeas: 9 - Barker, Gorsek, Greenlick, Olson, Sanchez, Sprenger, Stark, Vial, Williamson

Exc: 2 - Lininger, Post

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Josh Nasbe, Counsel

WHAT THE MEASURE DOES:

Requires Public Defense Services Commission (PDSC) to adopt policy compensating appointed counsel at rate commensurate with deputy district attorney practicing in same county who has equivalent experience. Prohibits PDSC executive director from negotiating contract that pays appointed counsel, or staff member working for appointed counsel, at rate less than comparable deputy district attorney or staff member employed by district attorney. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Sixth Amendment right to counsel
- Equality in an adversarial justice system
- Better public safety outcomes
- Attracting and retaining talented lawyers

EFFECT OF AMENDMENT:

Deletes language consistent with employment relationship and replaces with language consistent with contractual relationship.

BACKGROUND:

The right to appointed counsel in criminal cases is derived from the Sixth Amendment to the United States Constitution. See *Gideon v. Wainwright*, 372 U.S. 335 (1963). In Oregon's state court system, public defense is funded by the state, while the majority of compensation-related prosecution costs are borne by the county. See, e.g. ORS 8.760; 8.830; 135.055. The Public Defense Services Commission (PDSC) is the state-level entity responsible for maintaining a cost-effective, constitutionally sound public defense system and is required to adopt policies addressing the fair compensation of appointed counsel. ORS 151.216. House Bill 2561-A requires PDSC to do so at a rate commensurate with similarly situated deputy district attorneys.