

SB 83 A STAFF MEASURE SUMMARY

Carrier: Rep. Gorsek

House Committee On Judiciary

Action Date: 05/18/17

Action: Do Pass the A-Eng bill.

Vote: 11-0-0-0

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

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Whitney Perez, Counsel

WHAT THE MEASURE DOES:

Returns review of Public Utility Commission (PUC) orders in other than contested cases to Marion County Circuit Court or other appropriate circuit court. Retains review of contested case orders from PUC hearings in Court of Appeals. Specifies that binding declaratory rulings of PUC are subject to review in the Court of Appeals. Clarifies right of Citizens Utility Board to have standing for judicial review of any agency action. Makes conforming amendments.

ISSUES DISCUSSED:

- Differences between informal and formal orders
- Informal orders have no record to support review in the 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 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 or a circuit court in the county where the petitioner resides or has a principal business office.