

SB 491 A STAFF MEASURE SUMMARY**Carrier:** Rep. Williamson**House Committee On Rules****Action Date:** 06/06/17**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 7-0-2-0**Yeas:** 7 - Barreto, Hack, Kennemer, McLane, Rayfield, Smith Warner, Williamson**Exc:** 2 - Holvey, Nosse**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Erin Seiler, LPRO Analyst**WHAT THE MEASURE DOES:**

Replaces Oregon State Bar's (OSB's) Board of Governors with Oregon Supreme Court as appointing authority for State Professional Responsibility Board (SPRB). Directs disciplinary proceedings against OSB members be based on OSB bylaws and Oregon Supreme Court rules. Eliminates Local Professional Responsibility Committees. Creates professional adjudicator position(s) for SPRB. Provides immunity for disciplinary monitors as well as mentors participating in New Lawyer Mentoring Program. Restores requirement that disciplinary hearing be held in county of member's practice or residence, or county where offense occurred. Restores record-keeping provisions for SPRB. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

- Provisions of measure

EFFECT OF AMENDMENT:

Restores requirement that disciplinary board hearing take place in county of member's practice or residence, or county where offense occurred. Restores record-keeping provisions for disciplinary board.

BACKGROUND:

The Oregon State Bar (OSB) is a mandatory association of attorneys responsible for licensing and regulating the practice of law, administering a number of programs, offering and monitoring continuing education requirements, facilitating services for members and the public, and distributing OSB publications, among other functions. One of the programs OSB administers is a mandatory New Lawyer Mentoring Program that provides new members with a structured introduction to practice guided by existing members. With regard to its work on admissions to practice, reinstatement and disciplinary proceedings, OSB and its officers, employees, boards, and investigators are immune from civil liability. No such immunity is currently available to mentors in the New Lawyer Mentoring Program.

The current disciplinary system begins with review of complaints which may be referred for further investigation. If there is sufficient evidence of a violation, complaints are then submitted to the State Professional Responsibility Board (SPRB) for review. The SPRB is appointed by OSB's Board of Governors. It is composed of seven lawyers and two nonlawyers. It is authorized to dismiss complaints, admonish lawyers, require diversion, recommend formal charges, and refer complaints to Local Professional Responsibility Committees for further review. If the SPRB finds that the required threshold has been met, OSB may file formal charges, and a panel of two lawyers and one nonlawyer is convened to make decisions; all are trained volunteers. A formal hearing, much like a court trial, is held and the panel issues a written decision, which is reviewable by the Oregon Supreme Court. In 2015, the American Bar Association's Standing Committee on Professional Discipline submitted a report on Oregon's disciplinary system. It made several recommendations, including the creation of a professional adjudicator, immunity for probation and diversion monitors, clarifying the roles of the Local Professional Responsibility Committees and the SPRB, and vesting appointment of the SPRB in the Oregon Supreme Court.

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Senate Bill 491-A addresses recommendations made by the American Bar Association and, additionally, expands immunity from civil liability. It eliminates Local Professional Responsibility Committees and authorizes appointment of the SPRB by the Oregon Supreme Court. It further allows for the appointment of one or more professional adjudicators. Finally, the measure expands immunity from civil liability to include disciplinary monitors as well as mentors in the New Lawyer Mentoring Program.