

Senate Bill 524

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that board member, officer, employee or agent of cooperative is personally liable to member of cooperative if board member, officer, employee or agent materially misrepresents financial condition of cooperative to induce member to enter into contract.

Provides that contract is void if board member, officer, employee or agent of cooperative misrepresents financial condition of cooperative or misrepresents term or condition of contract to induce member of cooperative to enter into contract.

Places burden on cooperative that seeks to enforce contract that member alleges should be void to show by preponderance of evidence that board member, officer, employee or agent of cooperative did not make material misrepresentation to induce member to enter into contract.

A BILL FOR AN ACT

1
2 Relating to contracts that members enter into with cooperatives; creating new provisions; and
3 amending ORS 62.355.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 62.355 is amended to read:

6 62.355. (1) Contracts for any of the following purposes, whether contained in the bylaws or
7 separately written, are valid when made between a cooperative and any member in which [*such*] **the**
8 member agrees to:

9 (a) Sell, market or deliver to or through the cooperative or any facilities [*furnished by it*] **the**
10 **cooperative furnishes**, all or any specified part of products produced or to be produced either by
11 the member or under the control of the member.

12 (b) Authorize the cooperative or any facilities [*furnished by it*] **the cooperative furnishes** to
13 act for the member in any manner with respect to all or any specified part of [*such*] **the** products
14 **described in paragraph (a) of this subsection**.

15 (c) Buy or procure from or through the cooperative or any facilities [*furnished by it*] **the coop-**
16 **erative furnishes**[,] all or any specified part of goods or services [*to be bought or procured by*] the
17 member **buys or procures**.

18 (d) Authorize the cooperative or any facilities [*furnished by it*] **the cooperative furnishes** to
19 act for the member in any manner in the procurement of goods or the procurement or performance
20 of services.

21 (2) The contract [*referred to*] **described** in subsection (1) of this section may fix and require **the**
22 **member to pay** liquidated damages [*to be paid by the member*] to the cooperative [*in the event of*
23 *breach of*] **if the member breaches** the contract [*by the member*]. Liquidated damages may be a
24 percentage of the value or a specific amount per unit of the products, goods or services involved
25 by the breach, or a specific sum.

26 (3) Two or more cooperatives may contract and act in association, incorporate or otherwise, to

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 perform collectively any of *[their]* **the** powers or purposes authorized by this chapter.

2 **(4) A board member, officer, employee or agent of a cooperative is personally liable to a**
3 **member if the board member, officer, employee or agent misrepresents the financial condi-**
4 **tion of the cooperative for the purpose of inducing the member to enter into a contract with**
5 **the cooperative.**

6 **(5)(a) A contract described in subsection (1) of this section is void if a board member,**
7 **officer, employee or agent of the cooperative induced a member to enter into the contract**
8 **with a material misrepresentation of the financial condition of the cooperative or a material**
9 **misrepresentation of the terms and conditions of the contract.**

10 **(b) A cooperative that seeks to enforce a contract with respect to which a member has**
11 **alleged that a material misrepresentation voids the contract under paragraph (a) of this**
12 **subsection has the burden of showing by a preponderance of the evidence that a board**
13 **member, officer, employee or agent of the cooperative did not make a material misrepre-**
14 **sentation to induce the member to enter into the contract.**

15 **SECTION 2. The amendments to ORS 62.355 by section 1 of this 2017 Act apply to con-**
16 **tracts that a cooperative enters into on or after the effective date of this 2017 Act.**

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