

Senate Bill 629

Sponsored by Senator KNOPP (Presession filed.)

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**.

Requires state agencies to carry out delegated duties in least costly manner. Allows petition to be filed in circuit court to challenge whether rule carries out agency's duties in least costly manner and whether agency took steps to reduce significant adverse effect of rule on small businesses. Requires court to award attorney fees, costs and fee of not less than \$5,000 to prevailing petitioner.

A BILL FOR AN ACT

1
2 Relating to requiring state agencies to carry out delegated duties in least costly manner.

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

4 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 183.**

5 **SECTION 2. (1)(a) An agency shall carry out the duties delegated to it by the Legislative**
6 **Assembly in the least costly manner.**

7 (b) As used in this subsection, "least costly manner" means that an agency fulfills its
8 duties through the adoption, amendment or repeal of a rule in a way that minimizes the fi-
9 nancial impact on individuals and small businesses in this state.

10 (2)(a) Any person may file a petition for judicial review in the Circuit Court for Marion
11 County or the circuit court for the county in which the petitioner resides or has a principal
12 place of business alleging that an agency has failed to comply with subsection (1) of this
13 section or with ORS 183.540 in the adoption, amendment or repeal of a rule.

14 (b) The petition for review must be filed no later than 180 days after the agency files with
15 the Secretary of State the certificate of the adoption, amendment or repeal of the rule.

16 (3) In a proceeding under subsection (2) of this section, the court shall enter a judgment
17 in favor of the petitioner if the court finds that:

18 (a)(A) The petitioner submitted comments in response to a notice of intent to adopt,
19 amend or repeal a rule under ORS 183.335;

20 (B) The comments described a manner of carrying out the agency's duties that the court
21 determines would be less costly than the rule, amendment to a rule or repeal of a rule pro-
22 posed by the agency; and

23 (C) The agency failed to justify in the certificate filed with the Secretary of State why
24 the agency did not choose the lower cost alternative described by the petitioner; or

25 (b) Substantial evidence exists in the record of the proceeding showing that the agency
26 failed to comply with subsection (1) of this section or with ORS 183.540.

27 (4) If a court finds in favor of a petitioner in a proceeding under subsection (2) of this
28 section, the court shall:

29 (a) Allow the petitioner reasonable attorney fees and costs; and

30 (b) Award to the petitioner a prevailing party fee determined by the court of not less

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 **than \$5,000.**

2 **SECTION 3. Section 2 of this 2017 Act applies to rules adopted, amended or repealed on**
3 **or after the effective date of this 2017 Act.**

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